MAIN LIBRARY AGRIC. DEPT.

СУПЕРОВИЧ
ПРИЗ ОВ

CALIFORNIA

William Sharon

MIDA'S

COMPENDIUM

OF

INFORMATION

FOR

THE LIQUOR INTERESTS

BY

WILLIAM MIDA,

EDITOR OF "MIDA'S CRITERION" OF THE WHOLESALE LIQUOR INTERESTS;
MIDA'S ILLUSTRATED MAGAZINE, AN EXPONENT OF PERSONAL LIBERTY;
MIDA'S NATIONAL REGISTER OF TRADE-MARKS FOR THE LIQUOR INTERESTS;
MIDA'S DIRECTORY OF WHOLESALE DEALERS, DISTILLERS AND IMPORTERS.

CHICAGO:
CRITERION PUBLISHING COMPANY.
1899.

HV5078
M15

Copyright, 1899,
by
William Mida.

MAIN LIBRARY AGRIC. DEPT.

PREFATORY.

There is no business beset with so many intricate legal restrictions, federal, state and local, as that of the traffic in spirituous, malt and vinous liquors.

The legal decisions and internal revenue regulations have become so numerous and complex that an authoritative summary which may serve as a guide to avoid pitfalls has become an imperative necessity, and this has been the main incentive that led to the preparation of this work.

The increasingly important subjects of trade-marks, warehouse receipts and statistical and other information for the daily conduct of business also receive due attention.

Distiller, brewer, wine producer, importer, dealer—wholesale and retail—and all collateral branches will find this work an indispensable adjunct for daily reference and truly encyclopedic in its range.

The Table of Contents will reveal the wide scope of the work, every contingency as it may arise being provided for, and precedent cases cited in a terse, comprehensive way. Being intended for the use of business men, the subjects are treated in plain language divested of all legal and technical phraseology. The matter has been so thoroughly systematized that the desired information can be readily found on any question that may present itself.

This Compendium crystalizes the arduous labors and painstaking researches of over a third of a century devoted to the liquor interests.

That it may fulfill the purpose intended—of safeguarding the interests of the trade—is the sincere wish of the publisher.

WILLIAM MIDA.

Chicago, May 15, 1899.

896782

SUMMARY OF CONTENTS.

PART I.

COURT DECISIONS OF THE FEDERAL AND STATE COURTS AFFECTING THE LIQUOR INTERESTS.

CHAPTER 1. Collections and Recovery 33
" 2. Local Option 43
" 3. Place of Sale 50
" 4. Transportation 55
" 5. Interstate Commerce 57
" 6. Original Packages 60
" 7. License 66
" 8. Municipal Power 87
" 9. South Carolina Dispensary Act 91
" 10. Malt Liquors and Brewers 93
" 11. Druggists 97
" 12. Civil Damages 103
" 13. Illegal Sale 112
" 14. Minor 118
" 15. Sales on Sunday and Holidays 125
" 16. Social Club 132
" 17. Sales by Tenants and Others 137
" 18. Injunction 139
" 19. Power of Officers 141
" 20. Jury and Jurors 142
" 21. Screens 144
" 22. Bonds 146
" 23. Corporations 147
" 24. Agents and Brokers 149
" 25. Miscellaneous 151

PART II.

WAREHOUSE RECEIPTS AND TRADE MARKS.

CHAPTER 1. Warehouse Receipts 163
" 2. Trade Marks 174

PART III.

INTERNAL REVENUE LAWS AND REGULATIONS.

CHAPTER 1. Wholesale Liquor Dealers 203
" 2. Retail Liquor Dealers 214
" 3. Distillers 218
" 4. Bottling in Bond 231
" 5. Special Tax 235
" 6. General Laws and Regulations 241
" 7. Regulations Reversed by Courts 248
" 8. Exporters 250
" 9. Brewers and Malt Liquors 253
" 10. Wine and Brandy 259
" 11. Importers 269

PART IV.

STATE AND OTHER LAWS OF GENERAL INTEREST.

PART V.

STATISTICAL TABLES.

PART VI.

QUESTIONS AND ANSWERS AND GENERAL INFORMATION.

CHAPTER 1. Questions and Answers on Practical Business Matters 346
" 2. General Information 368
" 3. Notable Expressions of Eminent Men on Personal Liberty 379

TABLE OF CONTENTS.

PART I.

COURT DECISIONS,

FEDERAL AND STATE, AFFECTING THE LIQUOR INTERESTS.

CHAPTER I.

COLLECTIONS AND RECOVERY.

Commercial agency rating—False statement..... 33
Rescission (cancelation of contract)..... 33
Sale—Rescission—Fraudulent contract 33
Rescission where buyer offers less price than contracted for..... 34
Fraudulent contract—Rescission..... 34
Misrepresentations by vendor 34
No recovery if part of debt illegal..... 35
Saloonkeeper—Bill of sale illegal if insolvent..... 35
Mortgage on goods for previous debt..... 35
Mortgage by owner in possession void..... 36
Amount paid cannot be recovered back..... 36
Money paid in Iowa cannot be recovered after unreasonable time.... 36
Of amount paid for liquor—Kegs and cases not returned..... 37
Agreement for rebate 37
Not enforcible where liquor known to be sold illegally..... 37
Illegal sales—Vendor cannot recover..... 37
Cannot recover if to be sold contrary to law..... 38
On contract made in non-prohibition state..... 38
For goods sold to resident of prohibition state..... 39
Note valid in Iowa for beer bought in Missouri..... 39
Illegal sale no defense to suit for price of liquor..... 40
Defendant must prove illegality of sale to avoid payment..... 40
Illegal sales in Mississippi..... 40
Liquors sold for use in prohibition state..... 40
Value of original packages can be recovered..... 41
Partner—Power to bind firm..... 41
Collecting outlawed debt 41
Of money loaned for drink..... 42

CHAPTER II.

LOCAL OPTION.

FLORIDA—
All statutes authorizing license suspended..... 43
GEORGIA—
Express companies cannot deliver liquors at general office 43
Power of town council and legislature..... 43
Five-mile law applies only to sales outside of incorporated towns 44
KENTUCKY—
Tippling house 45
Effect of amendment of city charter..... 45
Petitions for election 45
Applies to distiller's license..... 46
Repeal of law..... 46
MICHIGAN—
Power of board of supervisors..... 46
Notice, how published..... 46
Druggists liable under local option..... 47
MISSISSIPPI—
Record must show facts as to petitioners..... 47
MISSOURI—
Constitutionality of local option..... 47
TENNESSEE—
Signers of petition may take off their names..... 47
TEXAS—
Petition for election..... 48
Mandamus to compel election order..... 48
Legislature cannot impose new conditions..... 48
Oral evidence of contents of petitions admissible..... 48
Requirements of election order..... 49
Place of sale 49
Trade of liquors is sale..... 49
One may keep liquor for another..... 49
Partial exemption constitutional..... 50
NORTH CAROLINA—
No vested right acquired by dealers..... 50

CHAPTER III.

PLACE OF SALE.

Internal revenue ruling..... 50
Sale is made where completed by delivery..... 51
Distance from church or school measured in a direct line..... 51
Where delivered to carrier..... 51
Where agent lives when goods sent in gross and delivered severally by agent 52

Laws of place to which liquors shipped have no effect..... 52
Legality depends upon whether person ordering was agent of purchaser or of dealer..... 52
Delivery outside of saloon..... 53
At warehouse from which shipped..... 53
Sale from wagon in local option district illegal..... 53
Carrier is agent of C. O. D. purchaser..... 53
Sale completed where seller resides..... 53
Effect of shipment C. O. D.—Carrier is agent of seller..... 54
Place of trial—Indictment..... 54

CHAPTER IV.

TRANSPORTATION.

Railway liable only for value given in bill of lading..... 55
Police powers of state..... 55
Forfeiture of conveyance..... 55
Railway conductor cannot take up mileage books..... 56

CHAPTER V.

INTERSTATE COMMERCE.

State laws visiting penalty on carrier void..... 57
Vermont law not unconstitutional..... 57
South Carolina requirement of chemist's certificate void..... 57
Dispensary laws not unlawful discrimination..... 58
State police law..... 58
Kansas prohibitory law valid..... 59
Does not apply to selling by sample..... 59
Liquors not seizable in transit..... 59

CHAPTER VI.

ORIGINAL PACKAGES.

Interstate commerce—Right to ship and sell..... 60
United States law is constitutional..... 61
Taxable when mixed with mass of property in state..... 62
Carrier cannot refuse to transport to prohibition state..... 62
Definition of original package..... 62
Bottles are not original package..... 63
Bottles are original package..... 63
What constitutes original package..... 63
Where customers do the opening..... 64
Must sell package as well as contents..... 64
Definition of original package..... 64
Bottles are not original package..... 65
Citizen of another state may store liquor for sale in South Carolina.... 66

CHAPTER VII.

LICENSE.

ALABAMA—
License not needed for sale of entire stock..... 66
ARKANSAS—
Selling liquor without license..... 66
CALIFORNIA—
Ordinance held valid..... 66
Board has arbitrary power to refuse..... 67
Female waitresses 67
COLORADO—
Power of town council..... 67
CONNECTICUT—
Sale without license and keeping without license are distinct offenses 67
DELAWARE—
Assignment from husband to wife not valid..... 68
FLORIDA—
Not to issue on illegal petition..... 68
Ordinance void for discrimination..... 68
GEORGIA—
Within police power and revocable by city..... 69
ILLINOIS—
Ordinance void for discrimination..... 69
Ordinance held valid..... 69
Power of city council 69
Special ordinance of Cairo void..... 70
INDIANA—
Application—Act of bartender..... 70
Bond, even if invalid, protects sales..... 71
Woman cannot hold license..... 71
May be revoked at any time..... 71
Must not assume that illegality would take place..... 71
Not a contract..... 72
Saloonkeeper cannot have a partner..... 72
Not subject to collateral attack..... 73
Remonstrance made through attorney..... 73
IOWA—
Consent of adjoining property owner..... 73
No refund of mulct taxes..... 73
Right to sell 74
Sale not legal for partner..... 74
KENTUCKY-
Application by distiller—Notice..... 74
Sunday sale is not sale without license..... 75
Sales by physician 75
Issued to firm protects remaining partner after dissolution.... 75

LOUISIANA—
Planter who sells only to employes requires license..... 76
MARYLAND—
Constitutional law—Validity..... 76
MASSACHUSETTS—
Law limiting retail licenses is valid..... 76
MICHIGAN—
Right of administratrix to continue business..... 76
Retail dealers, all who sell by the drink..... 77
County treasurer no right to receipt for license before filing bond 77
Two or more bars in one house..... 77
MISSISSIPPI—
Petitions..... 77
Required for each bar..... 78
MISSOURI—
State and city license required..... 78
Sale without license 78
NEBRASKA—
Void if issued on credit..... 79
Physicians and druggists excepted..... 79
Notice of application 79
Rights of remonstrants..... 79
Mandamus 80
School districts 80
Refund when canceled 80
Notice of application 80
NEW JERSEY—
Must not be excessive..... 80
Not revocable for Sunday selling..... 81
County license no defense under city ordinance..... 81
NEW YORK—
Filing assignment and possession of certificate unnecessary.... 81
Saloon license is property..... 82
To sell within prohibited distance of church or school..... 82
OHIO—
Right under Dow law to store in cooler..... 82
OKLAHOMA—
Malt liquor sale illegal..... 83
PENNSYLVANIA—
Dealer not bound by oral agreement..... 83
Brewer can pay saloonkeeper's license..... 83
May be refused arbitrarily..... 84
Stockholders in distilling or brewing company not entitled to license 84

TEXAS—
Constitutionality of law..... 84
Which did not indicate place of sale..... 84
Payment of internal revenue tax may be introduced in evidence. 85
WISCONSIN—
Is not transferable..... 85
Injunction will not lie at suit of one who will suffer no loss by issue..... 85
Powers of legislature..... 86
Payment..... 86
Brewer's agent must be licensed to sell in other towns..... 86
WYOMING—
Power of city..... 86
Discretion as to issuing..... 87

CHAPTER VIII.

MUNICIPAL POWER.

County supervisors have no power over corporate towns..... 87
May be delegated by state..... 88
County in Georgia cannot levy arbitrary tax..... 88
Ordinance overruled by statute of state..... 88
City may prohibit drunkenness..... 89
Cannot prohibit sale of hop tea..... 89
State prohibition in Kansas does not prohibit enactment of city ordinance..... 89
Ordinance void in one part may be valid in other parts..... 89
No authority to destroy liquor in anticipation of riot..... 89
Cannot revoke license for Sunday selling..... 90
Municipal corporations—Authority to sell liquor—Injunction..... 90

CHAPTER IX.

SOUTH CAROLINA DISPENSARY ACT.

Liquors may be shipped to individuals for their own use in South Carolina..... 91
Constitutional law—Interstate commerce—Intoxicating liquors..... 91
Liquor in private house..... 91
Interstate commerce..... 92
Monopolies..... 92
Cannot override interstate commerce..... 92
Act is constitutional as police regulations..... 93
Does not repeal other laws..... 93

CHAPTER X.

MALT LIQUORS AND BREWERS.

Brewers must pay warehouse tax in Ohio..... 93
Brewer's license not needed in Illinois..... 94

Law does not prohibit carrying on business..... 94
Company may have license for different breweries..... 94
Beer and all malt liquors intoxicating..... 95
Indiana beer tax valid..... 95
Beer presumed to be intoxicating..... 95
"Beer" understood to be the fermented malt liquor in common use.. 95
Beer subject to seizure and forfeiture..... 96
Salicylic acid in beer prohibited in Ohio..... 96
Intoxicating quality of beer a question for jury..... 96
Contracts in restraint of trade by brewers..... 96

CHAPTER XI.

DRUGGISTS.

Patent medicine or distilled spirits..... 97
Sale of malt tonics..... 97
Sample bottles do not require stamps..... 97
Sale for medical purposes..... 98
Discretion as to licensing constitutional..... 98
Drug clerk can only sell on proper prescription..... 98
Cannot sell alcohol for any purpose in Iowa..... 99
Pharmacist's permit..... 99
Form of information..... 99
Application for license..... 100
Not necessary to show druggist was not licensed saloonkeeper..... 100
One sale not sufficient for conviction of keeping place for illegal sale.. 100
Illegal sales..... 101
Selling without license..... 101
Not liable if tincture of ginger is used as intoxicant..... 101
May be required to produce prescription in court..... 101
Information must contain name of purchaser..... 102
License not required for sale on prescription in local option district in Texas..... 102
Sale is presumed illegal unless on prescription..... 102

CHAPTER XII.

CIVIL DAMAGES.

Liability for money stolen..... 103
Measure of damages..... 103
Who are liable..... 103
Proper to exclude evidence of refusal to sell to husband when drunk.. 103
Instruction to jury..... 104
Children and wife may sue jointly or separately..... 104
May show proximate cause of death..... 104
Saloonkeeper responsible for sale by bartender..... 104
Father may recover for death of son..... 104
Liability for proximate cause of death..... 105

Saloonkeeper responsible for damage to property values..... 105
Wife may recover though sale was made to stranger..... 105
Administrator cannot sue for damages..... 106
Sufficiency of notice..... 106
Conviction for drunkenness admissible to show damages..... 106
Principal and sureties on different bonds may be joined..... 106
Liable for damage to wife of habitual drunkard..... 106
Mother may recover for death of adult son who contributed to her support..... 107
Wife may recover for injury to her feelings..... 107
All contributing to intoxication liable..... 107
Joint liability of all vendors..... 107
Sureties not liable for dealer's own drinking..... 108
Consent of wife to sale does not defeat recovery..... 108
Evidence as to support of minor children..... 108
Essential facts to be shown..... 109
Sureties on bond liable..... 109
Loss of support..... 109
Liable if liquor merely contributes to damage..... 109
Not liable for damage caused by drunken man who did not buy of him. 110
Not necessary to prove knowledge or consent of lessor to sale..... 110
Father cannot recover for injuries to son who has no family relations to him..... 110
Liability for effects of liquor sold..... 111
Selling to habitual drunkard..... 111
Dealer's liability in Texas..... 111
Action should be brought by father of minor, not by mother, in Texas. 112
Mother may bring action in West Virginia..... 112

CHAPTER XIII.

ILLEGAL SALE.

Conviction irrespective of belief or motive..... 112
Refers to sale or gift..... 112
Whether the loan of bottle of whisky was a subterfuge or bona fide a question for jury..... 113
Sale of liquor to female servants in upper part of building not sufficient to convict of sale to females in wine room..... 113
Person who receives money and delivers liquor is seller..... 113
Buying for another..... 113
Sale in country..... 114
Furnishing money to purchase liquor not an offense..... 114
Liquor found on premises is presumptive proof..... 114
Ignorance of intoxicating quality no defense..... 115
Purchaser is not guilty with the seller..... 115
"Keeping" liquor on person for unlawful sale..... 115
Tenement..... 115
Evidence..... 115

Effect of statute on county boundaries..... 116
Admissible evidence 116
Where ordered for another..... 116
Through intermediary 117
Evidence—Error..... 117
Women 117
Constitutional law 117
Conflict of testimony 118
Law providing that payment of United States internal revenue special tax is prima facie evidence of selling is constitutional..... 118
Barn not "own private dwelling"..... 118

CHAPTER XIV.

MINOR.

Burden of defendant to show consent of parent..... 118
Selling without license—Purchase for minor..... 119
Illegal to sell to minor for use of another..... 119
Passing bottle not proof of aiding in sale..... 119
Sale to minor for adult is illegal..... 120
Belief as to age no excuse..... 120
Knowledge of being under age not essential to offense..... 120
Complaint need not allege delivery or for whose use bought..... 120
Evidence of saloonkeeper's reputation excluded..... 120
Admission of evidence for defendant..... 121
Messengers for parents..... 121
Dealer not liable for sale by clerk against orders..... 121
Misrepresentation of age no defense..... 122
Good faith and honest intention no defense except to mitigate penalty 122
Sale to another for minor no offense..... 122
Dealer liable regardless of belief of age..... 122
Saloonkeeper must prove parents' consent..... 123
Offense to sell to minor for any purpose..... 123
No defense that minor had written order and money from adult to purchase for him..... 123
Saloonkeeper liable for sale to another for minor..... 123
Delivery to minor for another not a sale to him..... 124
Retail dealer—Bond..... 124
Not to be allowed on premises..... 125
Not necessary to offense that dealer knew minor to be under age..... 125

CHAPTER XV.

SALES ON SUNDAYS AND HOLIDAYS.

Gift of intoxicants illegal on election day..... 125
Where town or city controls traffic licensee cannot be tried under state statute for Sunday sale..... 126
Not necessary to show drinking on premises..... 126

Sale by club 126
Permitting person in saloon 126
Citizen of Indiana may give to friend in a social way on holiday 127
Sale in dwelling house 127
May be holiday for commercial paper only and sale may be lawful 127
Finding door open and helping himself to liquor is evidence of giving away on Sunday 128
Cannot open to prepare for Monday 128
Sales on labor day 128
"Closed" applies to every means of ingress 128
Unnecessary to prove sale within particular room if it is proven to have been open 129
Sufficient form of complaint 129
Opening illegal even without sale 129
Owner prima facie responsible for opening 130
Engaging in labor 130
Dentist not physician 130
Saloonkeeper's intention immaterial 130
Election day 131
Private citizen can furnish liquor in his own house on Sunday to family or guests 131
Opening and giving away beer illegal 131
Keeping open election day—Validity of election not affected 131
Municipal regulation of Fort Worth, Texas 132

CHAPTER XVI.

SOCIAL CLUB.

Decisions in general regarding sale in clubs 132
Illegal sales of incorporated association 133
Social club may be barroom 134
Liable to license in Louisiana 134
Sale of liquor by clubs and at dances in Minnesota 134
Must not sell to minors or without license 135
May sell in Missouri 135
Can sell to members without license in Montana 135
No license required where sales are without profit 136
Selling only to members without profit needs no license in Texas 136
Must obtain license in West Virginia 136

CHAPTER XVII.

SALE BY TENANTS AND OTHERS.

By tenant without knowledge of owner 137
By tenant—Nuisance 137
Liability of non-resident landlord 137
By clerk—If principal absent, his knowledge must be established 137
Sale by wife—Liability of husband 138

Guilt of landlord..... 138
By tenant—Landlord must not permit..... 138
By tenant--Rent may be recovered..... 138
By clerk—Contrary to order of employer..... 139

CHAPTER XVIII.

INJUNCTION.

Liquor nuisance 139
Lien on property of owner of place enjoined as nuisance..... 139
Insufficient evidence 139
Where first injunction is conclusive..... 140
Nuisance 140
Right to make permanent..... 140
Saloon not nuisance 141

CHAPTER XIX.

POWER OF OFFICER.

Constable cannot search without warrant..... 141
Arrest—Necessity for warrant..... 141
Delay of officer for three days unlawful..... 142
In force only reasonable time 142
Search warrant—Affects only tenant who violates the law..... 142

CHAPTER XX.

JURY AND JUROR.

Member of Good Templars competent..... 142
Wholesale liquor dealer competent..... 143
Fees—Not imperative 143
Incompetent if he has strong prejudice against saloons..... 143
Not disqualified by temperance sentiment..... 144

CHAPTER XXI.

SCREENS.

Law not in conflict with United States law..... 144
Ordinance invalid..... 144
In Indiana 144
Iowa screen law refers also to wholesalers who give away by the glass 145
Includes hotel office used as barroom..... 145
Applied to "open house" in Texas..... 145

CHAPTER XXII.

BONDS.

Are penal in Minnesota 146
Action to recover not abrogated by repeal of law..... 146
Must be strictly construed..... 146

CHAPTER XXIII.

CORPORATIONS.

Taxing foreign corporations 147
One state may exclude corporation of another..... 147
Corporation license 147
Liable for notes signed by its officers..... 148
Contracts not invalidated by failure to comply with state law..... 148
Certificate to do business..... 149
Domicile—Principal office 149

CHAPTER XXIV.

AGENTS AND BROKERS.

Non-liability of principal for acts of agent exceeding his authority.... 149
Brokers—Agency—Commission 150
Principal and agent—Commissions for selling 150
Right to commissions 150

CHAPTER XXV.

MISCELLANEOUS

Cruel and unusual punishment..... 151
Power of partner in business..... 151
Distilling slop contract—Liable for shutting down..... 152
Aiding another to sell..... 152
Buying for friend is sale 152
Buying for friend is not sale..... 153
Slot machine not necessarily gambling device..... 153
Peddler need not pay license..... 153
Agent selling from sample is not peddler..... 153
Saloonkeeper not responsible for horse and buggy..... 154
Saloonkeeper's right to expel from the room..... 154
Negroes may be refused drinks in saloons in Minnesota..... 154
Sales to habitual drunkards..... 154
Sale by officer under judgment..... 155
Giving recognizance waives objections to warrant and arrest..... 155
Nuisance—Sufficiency of evidence..... 155
Beverage or medicine 155
Beverage or medicine, what constitutes test..... 156
Alcohol—Not vinous or spirituous liquor in Mississippi..... 156
Physician—Prescription 156
Restraint of trade—Distiller's monopoly..... 157
Ohio pure food law valid..... 157
Ohio pure food law construed..... 158
May recover fire insurance, though without license..... 158
Life insurance—Right of Woodmen to exclude liquor dealers..... 158
Taxation—Whisky in bond..... 159

Deed—Restriction as to use of premises..... 159
Deeds—Covenants in restraint of trade..... 159
Sale—Change of possession..... 159

PART II.

WAREHOUSE RECEIPTS AND TRADE-MARKS.

CHAPTER I.

WAREHOUSE RECEIPTS.

Liability of indorser—Buyer cannot recover except from warehouse.. 163
Lien of vendor on goods sold in case of fraudulent purchase..... 164
Private warehouse receipts are negotiable..... 165
How far negotiable?..... 165
Priority of warehouse receipts..... 166
Innocent purchaser not bound by agreements of which he has no knowledge..... 168
Validity of distiller's warehouse receipts..... 168
Effect of transfer of warehouse receipt..... 170
Warehouse receipts not valid as against taxes due from distiller..... 170
Lien—Notice..... 170
Lien—Storage..... 171
Warehouseman's liability for goods destroyed by fire..... 171
Indiana law against private warehouse receipts..... 171
Kentucky warehouse law..... 172

CHAPTER II.

TRADE-MARKS.

What constitutes a trade-mark and what the exclusive right to it.... 174
A mark does not become a trade-mark until attached to vendible article and the article put on the market..... 175
Priority—Use—Invention..... 176
Owners must be diligent or lose their rights..... 176
Use of family name must not interfere with other's trade name..... 176
Name of chief ingredient not protected—Right must be exclusive..... 178
Use of individual name conflicting with older firm..... 179
Pale ale and beer labels..... 179
Label on patented articles..... 180
Must not contain a false representation..... 180
Infringement restrained..... 180
Business protected against fraud..... 181
Geographical name cannot be used by manufacturers at other places.. 181
Wrongful use of trade-mark is evidence of an illegal act..... 182
False representation in label gives ground for relief..... 182
Penalty for shipping under false label..... 182

False use of geographical names 182
Powerlessness of patent office 183
Infringement—Imitation 183
"Palmetto" as a trade-mark 183
Resemblance 184
Right to use one's own name in trade 184
International protection 184
"Budweiser" protected as a trade name 184
Imitation of label 185
Geographical name, "Waverly," registrable 185
Infringements of labels 185
"Imperial" cannot be protected 185
Assignment between partners 186
Criterion of unfair competition 186
Effect of omission in registration 186
Geographical name "Genesee" cannot be appropriated 186
Abandonment extinguishes right 187
Foreign trade-marks 187
Common appellatives not entitled to protection—"Castoria" 187
Foreign infringement of domestic trademarks 187
Penalty for infringement 188
The words "Monopole" or "Dry Monopole" in connection with champagne 188
Improper use of geographical name 189
Marks of quality are not trade-marks 189
Fraudulent and imitation wines may be seized 189
Is transferred with business 190
Private brands vs. manufacturers' brand 190
"G. & F." held to infringe "G. F." trade-mark 191
Constitutional law—Protection for unions 191
Corporate name as a trade-mark 191
Definition—Conflict in use of name "Monarch" 192
Right to use of personal name sometimes denied 193
Firm selling "good-will" cannot afterward use old trade-marks 194
Property right in word "Crow" protected 195
Names describing product cannot be appropriated 195
Name may be sold 196
Size, shape and style may be protected 196
Infringement on "Genuine Hollands" 196
Individual must not use his name to deceive 197
Form of package not protected 197
Infringement—Damages 197
Union label not a trade-mark 198
Label must be fanciful 198
Personal trade-mark cannot be assigned 198
Shipping liquors under name indicating false origin 199
Revenue officers cautioned against acting on statue prohibiting shipment under false name 199

PART III.

INTERNAL REVENUE LAWS AND REGULATIONS.

CHAPTER I.

WHOLESALE LIQUOR DEALERS.

General rules for wholesale liquor dealers..... 203
Book, form 52, to be kept by wholesale dealers and rectifiers..... 205
Purchasing spirits 212
Sale of warehouse certificates for whisky in bond..... 212
License required at every place of sale..... 213
Liability for use of filtering machine..... 213

CHAPTER II.

RETAIL LIQUOR DEALERS.

Regulations applicable to retail dealers..... 214
Sale of packages aggregating five gallons..... 216
Liability as rectifier for mixing compound liquors for sale..... 217
When mixed in quantities of less than five gallons and not for sale in packages 217
Medicine used as beverage..... 217
Special tax for sale on boat..... 218
Special tax to wife may be used by husband..... 218
Special tax for partnership..... 218

CHAPTER III.

DISTILLERS.

Distiller defined 218
"Spirits" defined..... 219
Proof spirits defined 219
Tax on distilled spirits..... 219
Computing tax on distilled spirits..... 219
Restoring to their original proof distilled spirits which have increased in proof 219
Changes of name and style..... 220
Capacity tax erroneously assessed..... 220
Sending samples does not make distiller liable as retail dealer..... 221
Special tax of distillers who have suspended operations and sold spirits 221
Extracting spirits from empty packages..... 221
When distillers must pay dealer's tax..... 221
Excessive leakage 222
Fictitious proof 222
Bond not liable for tax when spirits forfeited..... 223
Distilling within 600 feet of rectifying establishment prohibited..... 223
Bonded warehouse to be established..... 223

When distillery seized may be released before judgment..... 223
Only one withdrawal for transportation permitted..... 223
Distilling prohibited at certain places..... 223
Mash distinguished 224
Fermenting tubs 224
False entries in books 224
Changing brands 224
Books of distiller open to inspection..... 224
Transfer to other warehouse..... 224
Storekeeper's absence 225
Tax abated on liquor destroyed..... 225
Insurance 225
Tax covered by insurance 225
Spirits in warehouse destroyed by fire..... 225
Forfeiture of distillery for act of lessee..... 226
Officer must not be interested..... 226
Officers liable for wrongful seizure..... 226
Mixture of goods by rectification..... 226
Spirits on premises of rectifier cannot be forfeited for tax..... 226
Forfeiture relates back to time offense was committed..... 227
Evading tax 227
Cisterns 227
Control of warehouse 227
Examination by sample 227
Allowance for wantage 228
Stamps and brands must be open to inspection..... 228
Aging, maturing or purifying machine..... 229
Varieties of casks 229
Tax and assessments to be liens..... 229
Book, form 52c, revised, to be kept by distillers..... 229

CHAPTER IV.

BOTTLING IN BOND.

Law for bottling in bond..... 231
Regulations for bottling in bond..... 232
Extension of time for bottling, casing and removing spirits..... 233
Time for completing process..... 233
Bottling reimported spirits at distillery warehouse not permitted..... 233
Stamps not representing taxes not redeemed..... 234
Using undersized bottles or underfilling bottles not permitted 234
Contents of casks removed for bottling to be drawn off the same day.. 234
Disposition of bottles containing remnants..... 234

CHAPTER V.

SPECIAL TAX.

Amount of taxes 235

Liquors may be sold without special tax by constructive consignment to an authorized dealer..... 236
Wood alcohol not taxed..... 236
Special tax must be paid for selling liquor as a medicine..... 236
Liability for sale of fruits preserved in spirits..... 236
Tax for manufacture of imitation cider..... 236
Rectifiers 237
When tax due 238
Must pay tax before commencing business..... 238
Tax must be paid by last day of month..... 238
Return required from persons liable to tax..... 239
Only one tax for copartnership..... 239
Tax for each place of business..... 239
Stamps redeemable only from proper persons..... 239
Death or removal of taxpayer..... 240
No additional tax for change of firm..... 240
Cannot restrain collection of tax..... 240
Lien for taxes 240
What lien for taxes covers..... 240
Limitation of action for recovery of taxes..... 240

CHAPTER VI.

GENERAL LAWS AND REGULATIONS.

Lists of collection districts and location of collectors' offices..... 241
Causes of Forfeiture—
Distillers and wholesale dealers..... 242
Rectifiers 244
How to ascertain taxable gallons on regauge..... 244
Shortage in packages of liquor..... 245
Ingwer liqueur 245
List of taxpayers kept 245
Special tax records cannot be used as evidence in state courts..... 245
Imitation stamp 246
Tax stamps must be posted..... 246
Duplicate stamps issued for packages from which stamps lost or destroyed 246
Casks 246
Officer must not divulge secrets..... 246
Signs 247
False signs 247
False name or brand..... 247
Remedy in case of illegal assessment..... 247
Officers may enter premises..... 247
Proprietors must not eject officers..... 248

CHAPTER VII.

REGULATIONS REVERSED BY COURTS.

Reduction in proof does not require change of original stamps—Alteration of marks and stamps..... 248
Proof can be reduced without changing the gauge appearing on original stamp 249
Whisky may be shipped in an unmarked and unbranded overcask.... 249
Distiller need not pay excess for portion of fermenting period..... 249

CHAPTER VIII.

EXPORTERS.

Drawback on exportation 250
Fraudulent drawback 250
Allowance for loss during transportation..... 251
Regauge of spirits for exportation..... 251
Reimported domestic whisky..... 251
Allowance on regauge for exportation of reimported whisky..... 251
Limitation as to quantity to be withdrawn and division of consignments 252

CHAPTER IX.

BREWERS AND DEALERS IN MALT LIQUORS.

Regulations for dealers in fermented or malt liquors..... 253
Beer stamps 255
Revenue tax on hop beer, root beer and ale..... 256
One who makes "malthia" is a brewer..... 256
Malt wine 256
Special tax on malt beverages..... 257
Brewer's special tax 257
Brewers must pay tax as wholesale dealers for sale from place of storage 257
Brewer entitled to refund of excess tax paid..... 258
Recovering special assessment paid 258
When brewers liable to retail dealer's tax..... 258
Gallon defined 258
Disposal of sour malt liquors without tax stamp..... 259
U. S. revenue laws not applicable to new possessions..... 259

CHAPTER X.

WINE AND BRANDY.

Digest of rulings under war revenue law relating to tax on sparkling or other wines 259
Stamp tax on wines bottled for storage for aging..... 263
Imitation sparkling wines and compound liquors to be sold as wine or as a substitute for wine..... 263

Special tax on wine used for tobacco casing fluid..... 265
Special tax for elder blossom wine..... 265
Special tax of wine manufacturer..... 265
Stamps on bottled wine which failed of delivery by reason of imperfections discovered in the wine cannot be re-used..... 265
Special tax—blackberry brandy 266
Bottles must be stamped even if given away..... 266
Fruit juice subject to tax 266
Sale of home-made wine, except by manufacturer, requires special tax 266
Vintners not taxed 267
Brandy warehouses 267
Brandy exportation 267
Wine spirits used in wine free..... 267
Exemptions on brandy made from apples, peaches, grapes, berries, etc. 268

CHAPTER XI.

IMPORTERS.

Tariff on spirits, wines and other beverages..... 269
French reciprocity treaty on bottled wine and vermuth..... 271
Government cannot deliver goods to owner of warehouse receipt without consent of importer..... 272
Assignee of importer may enter goods..... 272
Duty upon reimported domestic spirits..... 273
Duties paid must be returned if goods are forfeited..... 273
Liability of importer to wholesale dealer's special tax..... 273
Stamps for imported liquors..... 273
Stamps effaced 274
Imported spirit stamps 274
Imported casks 274
Shipping under false name or brand..... 274
Foreign goods infringing trade-mark cannot be imported..... 274
No allowance for breakage in transit..... 275
No duty on bottles and jugs 275
Repacking of wines 275
Importers of champagne must pay duty on bottles and wine both.... 276
Bovril wine—Rate of duty..... 276
Whisky for use of government..... 277

PART IV.

STATE AND OTHER LAWS OF GENERAL INTEREST.

CHAPTER I.

STATE LAWS.

Alabama—Dispensary law 281
Alaska 283
Indiana—Nicholson law 284
Iowa—Mulct law 285
Kentucky—Thorne law 287
Michigan 289
Minnesota 290
New York 293
Ohio—Dow law 296
Ohio—Pure food law 297
Ohio—Rules and regulations 298
Pennsylvania 302
South Carolina—Dispensary law 304
Texas 307
Massachusetts—Probation laws 310

CHAPTER II.

GENERAL LAWS.

National bankruptcy law 312
Epitome of war revenue bill 316
Canadian tariff law 319

PART V.

STATISTICAL TABLES.

Production of whisky from 1880 to 1898 325
Stock of whisky in bond from 1881 to 1898 326
Withdrawals of whisky from bond from 1881 to 1898 327
Spirits produced and deposited in distillery warehouses during the past twenty one years 328
Stock on hand, production and movement of spirits for five years 329
Spirits in hands of wholesale dealers and rectifiers 329
Spirits in distillery warehouses from 1869 to 1898 330
Leakage in warehouses from 1880 to 1898 330
Internal revenue receipts from distilled spirits since 1862 331
Rates of tax on spirits under different laws which have been in force 332
Materials used and spirits produced during past ten years 332
Number of different kinds of special tax payers 332

Outage table 333
Cost of spirits per proof gallon in cistern room.....334
Comparative value of spirits and alcohol.....335
Reduction of proof.....336
How to calculate given proof to its relative measure in weight.....337
Hydrometer table 338
Alcoholometer table 339
Spirits exported 339
Production of malt liquor from 1878 to 1887 340
Production of malt liquor from 1888 to 1898.....341
Internal revenue receipts from malt liquor since 1863.....342
Internal revenue receipts from all sources for the past ten years.....342

PART VI.

QUESTIONS AND ANSWERS AND GENERAL INFORMATION.

CHAPTER I.

QUESTIONS AND ANSWERS ON PRACTICAL BUSINESS MATTERS.

May the name "Distillery Company" be used on sign by company not distilling? 346
How is sour mash distilled?..... 346
May retail dealers mix liquors?..... 347
What power has Congress in prohibiting liquor traffic?..... 347
Liability of carrier for damage to goods in shipment..... 348
Do the words "interest and charges" in a warehouse receipt cover a purchase clause?..... 348
Does air improve quality of whisky?..... 349
Difference between license and mulct tax..... 349
Can tax on goods in bond destroyed by fire be enforced?..... 350
Is wholesale tax based upon proof gallons or wine gallons?..... 350
On construction of shipping under false name..... 350
Has dealer to give bond if goods are made under his name?..... 351
Is new special tax required after dissolution of partnership?..... 351
Liability of express company in a prohibition state..... 351
Assignee may sell stock under his assignor's special tax..... 352
Can vintner sell his produce without special tax?..... 352
Must wine bottles be stamped?..... 352
Must wine bottles and jugs be stamped?..... 353
What is dividing date between fall and spring inspection?..... 353
Is seller obliged to notify buyer goods are uninsured?..... 354
Who is liable for storage?..... 354
Liability for special tax on sale of whisky in bond..... 354
Must buyer or seller pay drayage?..... 355
Can retailer put up sign as wholesale dealer?..... 355

How is tax on reimported whisky determined?..... 355
Liability of salesman to special tax..... 356
Must whisky be tax-paid if outage is excessive?..... 356
Can part of barrel be retransferred from retail to wholesale dealer? 357
Must capacity of barrel and proof be put on bung stave when goods are shipped?..... 358
Can reimported whisky be regauged in custom house..... 358
On correction of volume..... 358
What quantity can retailer sell of different kinds at one time?..... 359
On restamping of packages..... 359
What quantity of liquor requires rectifier's stamp?..... 360
Is revenue stamp required on any quantity less than five wine gallons? 360
On refilling two-stamp and one-stamp whiskies..... 360
On reducing proof to original inspection..... 361
Can rectifier's stamp be changed for wholesale stamp?..... 361
Can barrels be refilled and how to enter on Form 52..... 361
Quantity of peaches required to produce a gallon of brandy..... 361
Stamps in relation to prune juice..... 362
Outage on reimported domestic whisky..... 362
Indiana state tax..... 362
Scale for remuneration of salesmen..... 362
Should free whisky stored elsewhere be entered in Form 52? What gauge marks should be entered and if shipped to retailer how to be entered?..... 363
How to enter in Form 52 goods shipped by distiller direct to retailer.. 364
How to enter reimported whisky in Form 52..... 364
How to enter in Form 52 when barrel is dumped into kegs..... 364
How to enter balance on Form 52 when part of barrel has been disposed of..... 365
How to enter on Form 52 when bottling for retail..... 365
What entry on Form 52 when wholesale and retail dealers put a barrel on tap for retail..... 366
Should goods be entered on Form 52 while in transit?..... 366
How to correct errors made in keeping Form 52..... 367
Should goods stored elsewhere be entered on Form 52?..... 367
How to enter on Form 52 goods taken back from retailer..... 367
What gauge marks should be entered on Form 52?..... 367
Should blackberry brandy be entered on Form 52?..... 368
What number of gallons should be entered on Form 52 for whiskies tax-paid and stored in free warehouses?..... 368
Should original contents or contents at time of tax paying goods be entered on Form 52?..... 368

CHAPTER II.

GENERAL INFORMATION.

Drayage..... 369
Net..... 369

Terms of sale..... 369
How to calculate storage charges..... 369
Correction of volume..... 370
Why does whisky gain or lose in proof?..... 370
To clear whisky discolored by iron..... 372
Treatment of frosted wines..... 372
Wine in doubtful condition..... 373
Unfermented wine 373
Green color in wines..... 374
Sediment in wines 374
Artificial wines from barley..... 374
A learned opinion on alcohol..... 375
Alcohol in law 376
What alcohol is used for..... 377
Germans prohibit saccharin in beer..... 378
Clarification of fermented liquors..... 378
Effect of alcohol on duration of life..... 378
Charring of barrels..... 379

CHAPTER III.

NOTABLE EXPRESSSIONS OF EMINENT MEN ON PERSONAL LIBERTY.

Robert J. Ingersoll on prohibition..... 379
Rev. Geo. F. Pentecost on temperance..... 380
Senator David B. Hill on personal liberty..... 380
Opinions of statesmen on prohibition..... 381
Horatio Seymour 381
Governor Andrew of Massachusetts 382
John Quincy Adams..... 382
Thomas Jefferson 382
Abraham Lincoln 382

PART I.

COURT DECISIONS

OF THE FEDERAL AND STATE COURTS

AFFECTING

THE LIQUOR INTERESTS.

CHAPTER I.

COLLECTIONS AND RECOVERY.

COMMERCIAL AGENCY RATING—FALSE STATEMENT.—

Though a merchant makes to a commercial agency a statement in some respects false, to be used in giving him a rating, which he knows is intended to be used by others as a basis for determining whether or not credit will be extended to him, yet, where no credit is actually extended until after the lapse of a considerable period, such, for instance, as 60 days, the person extending the credit and parting with the possession of his goods in pursuance thereof cannot assume that the statement is still operative, unless the person credited expressly reaffirms the truth of the statement, or at least knows or has reasons for believing that he is obtaining the credit on the faith of the representations made in the statement, and by remaining silent misleads the other party.

Treadwell vs. State (La.), 27 S. E. Rep. 785.

RECOVERY—RECISSION OR CANCELATION OF CONTRACT.—

A contract of an intoxicated person is voidable at his election only.

Lacy vs. Mann (Kan.), 53 Pac. Rep. 754.

RECOVERY—SALE—FRAUD—RESCISSION.—

Where goods were expressed C. O. D. by a vendor in another State to a vendee in Georgia, which were entirely different from those embraced in the contract of sale, and the amount of the C. O. D. charges were paid by the vendee

to whom the goods were delivered by the express company, and where, immediately upon the discovery of the fraud or mistake, the vendee tendered back the goods to the express company, and notified the vendor, by letter, of his action, the vendor being a nonresident and not accessible, an action by attachment will lie in favor of the buyer against the seller for the purchase money paid for the goods, without any further tender or offer of rescission.

Cohen vs. Lasky (Ga.) 30 S. E. Rep. 531.

RECOVERY—RESCISSION—WHERE BUYER OFFERS LESS PRICE THAN CONTRACTED FOR.—

In the case of an executory contract for the sale of goods to be paid for after delivery, if during the time for delivery the buyer notifies the seller that he will not pay the contract price for the goods, but only a less price, the seller has a right to act on this as a repudiation of the contract, and stop delivery; and, if thus acted on, he has his action for damages.

Armstrong vs. St. Paul & Pac. Coal Co., Minnesota.

RECOVERY—FRAUDULENT CONTRACT—RESCISSION.

A party defrauded in a bargain may, on discovering the fraud, do one of two things—he may rescind, and demand back what he has parted with, or he may affirm the contract and sue for damages. If he elects to rescind, he must do so as soon as circumstances permit after the discovery of the fraud. He cannot speculate on the chances and wait until he can see whether it will be most to his advantage to rescind or abide by the contract.

Norfolk & N. B. Hosiery Co. vs. Arnold, New Jersey.

SALE—MISREPRESENTATIONS BY VENDOR.—

A vendor who makes a false statement regarding a fact material to the sale, either with knowledge of its falsity or in ignorance of its falsity, when from his special means of information he ought to have known it, and thereby induces his vendee to purchase to his damage, is liable in an action

at law for the damage the purchaser sustains through the misrepresentation, or to have the sale rescinded in a suit in equity, at the option of the purchaser.

Moline Plow Co. of Kansas City, Mo., vs. Carson, U. S. C. C. of App., 72 Fed. Rep. 387.

RECOVERY—NO RECOVERY IF PART OF DEBT ILLEGAL.—

A note taken to secure an account, items of which for sales on Sunday and for liquors illegally sold are blended with legal items, is entire and indivisible, and hence there can be no recovery thereon.

Wadsworth vs. Dunnam (Ala.), 23 So. Rep. 699.

RECOVERY—SALOONKEEPER—BILL OF SALE IF INSOLVENT IS, AGAINST CREDITORS, PRIMA FACIE FRAUDULENT.

An agreement between a saloonkeeper and a merchant selling him goods that he will, in case of insolvency, turn over his stock of goods to such merchant, is void as against other creditors. Also, a bill of sale by an insolvent saloonkeeper of his entire business is, against creditors, prima facie fraudulent.

Chevalier vs. Crimmins, Sup. Ct., Cal., 34 Pac. Rep. 929.

RECOVERY—WHERE MORTGAGE IS GIVEN ON FRAUDULENTLY ACQUIRED GOODS TO COVER PREVIOUS DEBT OF PURCHASER.—

Goods fraudulently purchased under circumstances which entitle the vendor to a rescission for fraud do not become the property of the purchaser, so as to enable him to mortgage them to an existing creditor as security for an antecedent debt, and thus create a mortgage lien superior to the title of the vendor, who, on discovery of the fraud, rescinds the sale and reclaims the goods, the mortgagee not paying anything nor parting with anything as a consideration for the mortgage, but the consideration being the antecedent debt only.

Dinkler vs. Potts (Ga.) 15 S. E. Rep. 690, 1892.

RECOVERY—MORTGAGE BY OWNER IN POSSESSION VOID AGAINST CREDITORS.—

The Supreme Court of Minnesota holds that a mortgage on a stock of liquors is void as to creditors of the dealer, where it appeared that by agreement between the parties the dealer was to retain possession, with power to use the proceeds in maintaining the business, and in his own support and for his own benefit, without satisfying the mortgage debt.

RECOVERY—AMOUNT PAID CANNOT BE RECOVERED BACK.—

Although Rev. Code 1893 provides that all debts contracted for liquor sold in quantities less than half a gallon are not collectible, the amount paid on such debt cannot be recovered back.

Connally vs. McConnell (Del.) 39 Atl. 773.

RECOVERY—MONEY PAID FOR LIQUORS IN IOWA CANNOT BE RECOVERED AFTER UNREASONABLE TIME.—

N. P. Wind & Co. of Ottumwa, Iowa, sued Iler & Co. of Omaha, Neb., in Mills County, Iowa, in 1891, to recover under the Iowa liquor law some $30,000 paid by them to the defendants for liquors during the years 1881, 1882, 1883 and 1884. The testimony in the case brought out the fact that three of the seventy or seventy-five orders had been made through Iler & Co.'s traveling man, all others having been made by the plaintiffs by mail or telegram. Wind & Co. had never at any time made any demand on the defendants for the recovery of the money paid them until after the commencement of the action.

The Judge directed a verdict for defendants, holding

(1) As the shipments were made in original packages they come under the decision in the Leisy vs. Hardin case, and money paid for the goods cannot be recovered.

(2) The sales being closed in Nebraska, the Iowa law was not violated.

(3) A demand is necessary before bringing an action of this kind in order to create a liability, and such a demand must be made within a reasonable time.

RECOVERY—OF AMOUNT PAID FOR LIQUOR—KEGS AND CASES NOT RETURNED.—

The Gipps Brewing Company brought suit against Charles de France in Iowa for $2,635.35, alleged to be due for beer sold and delivered to the defendant and for kegs and cases not returned. The defendant, as a counterclaim, asked a judgment for the amount of money he had paid plaintiff for beer, and by direction of the court a verdict for $1,006.80 was given the defendant on the ground that the agreement between the parties was in violation of law, because it was to be performed in Iowa.

RECOVERY—AGREEMENT FOR REBATE.—

Where defendant sold liquors to plaintiff for more than its market value, agreeing to return part of the excess to plaintiff at the end of the six months if it appeared that plaintiff had made purchases from no one else, the fact that one of plaintiff's agents, accidentally, without plaintiff's knowledge, and without intention to violate the understanding of the parties, made a purchase from another person, will not prevent recovery by plaintiff of such excess.

Gottschalk Co. vs. Distilling & Cattle Feeding Co., U. S. C. C. (Ill.) 62 Fed. Rep. 901.

RECOVERY—NOT ENFORCIBLE WHERE LIQUOR CONTRACTED FOR IS KNOWN TO BE SOLD ILLEGALLY.—

An agreement by the purchaser of a saloon to pay for beer sold by the prior owner is not enforcible by the seller of the beer where he knew that it was to be retailed in violation of law.

Terre Haute Brewing Co. vs. Hartman, 49 N. E. Rep. (Ind.) 864.

RECOVERY—ILLEGAL SALES—VENDOR CANNOT RECOVER.—

Where intoxicating liquors are bought in another state, with the intention of selling them in Maine in violation of law, the vendor cannot maintain an action to recover the purchase price in any of the courts of this state, by reason of Rev. St. ch. 27, §56. And it is immaterial whether or not

such vendor knew of the illegal intention upon the part of the purchaser, or in any way participated in the same.

Knowelton vs. Doherty (Me.), 33 Atl. Rep. 18.

RECOVERY—WHERE VENDOR HAS KNOWLEDGE THAT THE LIQUOR WILL BE RESOLD CONTRARY TO LAW, HE CANNOT RECOVER.—

Where intoxicating liquors are sold in Nebraska for the purpose of enabling the person to resell them, contrary to, or in violation of, the laws of this state, and the vendor has the knowledge of the illegal purpose of the buyer, and participates with him in the illegal traffic, the sale is void, and no recovery can be had for the purchase price of the liquors thus sold.

Storz vs. Finkelstein (Neb.), 66 N. W. Rep. 1020.

RECOVERY—ON CONTRACT MADE IN NON-PROHIBITION STATE.—

Judge Phillips of the Court of Appeals in Missouri decided at Kansas City a case of interest to the trade, the gist of which is that when a contract for liquor is made in a state in which there is no prohibition law, a dealer cannot evade payment because of such a law in the state in which he does business. The parties to the suit were M. W. Kerwin & Co. of Chicago against Patrick Doran of Ottumwa, Iowa, for a balance of $339 out of a total of $1,100. Doran pleaded the prohibitory act, but the plaintiffs seized on some of his property in Missouri.

The Judge decided that the contract had been made in Illinois, a state in which the Iowa statute had, of course, no jurisdiction. The fact that the vendors had knowledge that the vendee intended to make an unlawful use of the goods sold is not sufficient to invalidate the sale. The fact that goods were shipped as crockery, so as to make them acceptable to the railway, may have been done by the defendant's instructions, and the fact that action was brought in Missouri, a state not under prohibitory law, made the plea of such concealment of goods to evade the local law of another state, of no force.

RECOVERY—FOR GOODS SOLD TO RESIDENT OF PROHIBITION STATE.

In December, 1889, Chas. H. Graves' Sons, liquor dealers of Boston, sued Walter B. Johnson, of Bath, Me., for the value of certain liquors and cordials they had sold the defendant, who was, at the time of such sale, proprietor of a hotel in Bath. The goods were delivered, as per agreement, at the transportation office in Boston and forwarded by the company to the defendant in Bath. The case was first tried in the Superior Court of Massachusetts in February, 1891, and a verdict rendered for plaintiffs, which was set aside on appeal, but in a second trial Judge Hammond decided for the plaintiffs and held:

That the traveling agent of the complainant took the orders for the liquors in the supposed knowledge that the goods were intended to be sold in violation of the laws of Maine, but that the plaintiffs personally had no knowledge, thought or care as to what the defendant intended to do with the goods, their sole motive and intent being to sell the goods in Massachusetts in the usual course of business for pecuniary profit. That the sale was made and completed in Massachusetss and the plaintiffs were entitled to judgment.

RECOVERY—NOTE VALID IN IOWA FOR BEER BOUGHT IN MISSOURI.—

Van Vleet at Pella, Iowa, was engaged in the sale of beer contrary to law. The Columbia Brewing Company brought action against him on a note given for beer. The defendant set up the plea that the note was uncollectible because the sale was illegal under the Iowa law. He also filed a counterclaim for $36,000 for money paid plaintiff for beer in addition to the amount of the note. Judge Woolson of the United States Circuit Court ruled that the note given by the defendant in Iowa for beer purchased of plaintiff in Missouri was valid, and further that the money paid by defendant for beer ordered by him of plaintiff in Missouri

could not be recovered back. A verdict was returned against defendant Van Vleet for $9,000.

Columbia Brewing Co. vs. Van Vleet (Iowa), U. S. Circuit Ct., 1898.

RECOVERY—ILLEGAL SALE—NO DEFENSE TO SUIT FOR PRICE OF LIQUOR.—

Knowledge that the vendee of liquors is selling them in violation of law is no defense to an action by the vendor for their price.

Gambs vs. Sutherland's Estate (Mich.), 59 N. W. Rep. 652.

RECOVERY—DEFENDANT MUST PROVE ILLEGALITY OF SALE TO AVOID PAYMENT.—

In an action to recover the price of ale sold to defendant in New Hampshire, the burden of proof is on defendant to show that the sales were illegal, because in conflict with Gen. Laws N. H., ch. 109, declaring sales of intoxicating liquors to be unlawful only in towns that had passed a vote to that effect.

Portsmouth Brewing Co. vs. Smith (Mass.), 28 N. E. Rep. 1130.

RECOVERY—ILLEGAL SALES IN MISSISSIPPI.—

Rev. Code 1880, §1108, making non-collectible any debt for liquors sold in less quantities than one gallon, and declaring void all notes and securities given therefor, does not apply to a purchase on credit of liquors from an unlicensed dealer, as the statute is expressly limited to licensed dealers.

Sanford vs. Starling & Smith Co., Mississippi.

RECOVERY—LIQUORS SOLD FOR USE IN PROHIBITION STATE.—

The Supreme Court of New Hampshire has held:

(1) That liquor bought in Boston and New York before the passage of the Wilson law, with the intention of shipping it to New Hampshire, must be paid for by the defendants. The mere knowledge of the intention of defendants to bring the liquor into New Hampshire and sell it there does not make the contract invalid.

(2) Liquors delivered by the plaintiff in New York and

Boston upon orders taken of the defendants in New Hampshire by the plaintiff's agents, who knew or had reasonable cause to believe the liquors would be brought there and sold in violation of law, come under the original package decision of Leisy vs. Hardin and must be paid for by the defendants, if the sales were made prior to the passage of the Wilson law in August, 1891.

RECOVERY—VALUE OF ORIGINAL PACKAGES CAN BE RECOVERED.—

The Supreme Judicial Court of Maine holds that, where intoxicating liquors are bought in another state with the intention of selling them in Maine, in violation of law, the seller cannot maintain an action to recover the purchase price in any of the courts of that state; and it is immaterial whether the seller knew of the illegal intention upon the part of the purchaser or in any way participated in the same. Where they are to be sold in the original packages, such sale not being illegal under the act of Congress of Aug. 8, 1880, the seller may bring his action to recover as on any other debt.

Knowlton vs. Doherty, 33 Atl. Rep. 18.

RECOVERY—PARTNER—POWER TO BIND FIRM.—

Where a partner sells firm goods under an agreement that one-fourth of the price should be applied on a private debt owed by the partner to the purchaser, the firm cannot recover such one-fourth.

Grover vs. Smith (Mass.), 42 N. E. Rep. 555.

RECOVERY—COLLECTING OUTLAWED DEBT—IF DEBTOR ACKNOWLEDGES IT TO THIRD PERSON.—

A person alleged to be indebted to another admitted to a third person that he owed a note of about $60, which was just and due, and that he intended to pay it if ever he got well enough. The Supreme Court of North Carolina held that this acknowledgment was not sufficiently definite to take the case out of the statute of limitations. The Court cited, with approval, the following rule: The new promise

must be definite, and show the nature and amount of the debt, or must distinctly refer to some writing, or to some other means, by which the amount and nature of it can be ascertained; or there must be an acknowledgment of a present subsisting debt, equally definite and certain, from which a promise to pay such a debt may be implied. Again, it has been held that the promise must be made to the creditor himself, or to an attorney or agent for the creditor, to repel the statute.

RECOVERY—OF MONEY LOANED FOR DRINK.—

Frederick Sheidel claimed the sum of $1,525.30 as against the estate of Charles L. Phillips for money loaned the deceased. The money was lent Mr. Phillips to gratify his taste for intoxicants against the wishes of his family and in defiance of it. Judge Hawkins ruled that as the Brooks law provided that the sale of liquor to intemperate persons by a saloonkeeper was a criminal offense and the value not recoverable by law, it was obvious the law applied with equal force to the man who furnished the drinks and to him who furnished the money to pay for them. There was no reason for discrimination between them. The law was applicable to and should be obeyed by all. It was an aggravation of the offense that the plaintiff acted in defiance of the wishes of Mr. Phillips' family, and under a well-known rule of law he would have no standing in a court of equity. The Judge refused Sheidel's petition to have the case opened for a rehearing at the petitioner's cost.

F. Scheidel vs. Estate of C. L. Phillips, Decision by Judge Hawkins, Pittsburg, Pa., Sept., 1895.

CHAPTER II.

LOCAL OPTION.

LOCAL OPTION—FLORIDA—ALL STATUTES AUTHORIZING LICENSE SUSPENDED THEREBY.—

Where there has been an election under the local option article of the Florida constitution of 1885, and legislation in pursuance thereof, with the result adverse to the sale of intoxicating liquors, wines and beer in any county or election district in this state during the period of the operation of the result of such election, all statutes authorizing or licensing the sale of such liquors, wines and beer are suspended.

Cason vs. State, Fla., 20 South, Rep. 547.

LOCAL OPTION—GEORGIA—EXPRESS COMPANIES CANNOT DELIVER LIQUORS AT GENERAL OFFICE.—

An important case involving the right of express companies to deliver whisky in local option counties was tried in 1899, at Cartersville, Ga. The case is that of the Southern Express Company, an indictment against the company for delivering whisky shipped there at the office of the company, which was declared to be a public place.

It is claimed that the company has no right under the law to deliver goods of this sort at its general office, but must deliver whiskies at the private residences of the consignees.

Judge Fite directed the jury to bring in a verdict against the company, but he suspended sentence and the case will be taken before the Supreme Court.

LOCAL OPTION—GEORGIA—POWER OF TOWN COUNCIL AND LEGISLATURE.—

A liquor dealer named Sunden was arrested and fined by the Mayor of Oakland, Ga., for selling intoxicating

liquors within the town. The ordinance under which he was found guilty reads as follows:

"No person shall buy or keep any spirituous or intoxicating liquors within the corporate limits of this town with intent and purpose to sell the same. Any person violating this ordinance shall, upon conviction, be fined not less than $25 nor more than $100, or imprisoned not more than thirty days."

Sunden was given the limit of the law. The town was chartered by act of the General Assembly, approved December 12, 1894. The charter contains this section:

"Be it further enacted, that the sale of spirituous, vinous, malt and intoxicating liquors shall be forever prohibited within the limits of said corporation of Oakland City," etc.

The case was taken to the Superior Court on certiorari, and on the hearing the Mayor's sentence was reversed and Sunden was released. The Court held:

(1) The case of Bagley vs. the State, reported in the Southeastern Reporter, vol. 29, pp. 123, has decided that such legislation is unconstitutional. This covers the question and binds the Superior Court.

(2) Since the passage of the local option act of 1885, and while it remains in force, the legislature cannot constitutionally pass an act prohibiting the sale of liquors within the corporate limits of a certain town or city, and the municipal authorities cannot accomplish the same result by a prohibitory ordiance.

LOCAL OPTION—GEORGIA—FIVE-MILE LAW APPLIES ONLY TO SALES OUTSIDE INCORPORATED TOWNS, ETC.—

Prima facie a local statute which prohibits the sale of spirituous liquors within five miles of certain specified churches applies only to sales outside of the limits of incorporated towns, villages or cities.

Hart vs. State, Ga., 15 S. E. Rep. 685.

LOCAL OPTION—KENTUCKY—TIPPLING HOUSE.—

Persons cannot be prosecuted under the general law for the offense of keeping a tippling house in localities where either the general or a special local option law is in force, as persons who sell liquor violate that law, and if proceeded against at all it must be under that law.

Wooten vs. Commonwealth, Superior Court, Kentucky, December, 1893.

LOCAL OPTION—KENTUCKY—EFFECT OF AMENDMENT OF CITY CHARTER.—

The Court of Appeals for Kentucky has rendered the following opinions on "local option and repeal of statute" in the case of Tabor vs. Lander, etc., and Hayes vs. Commonwealth, being an appeal from Hancock Circuit Court:

(1) Where the general local option law had been voted into operation in a civil district of which a city formed a part, an amendment to the city charter conferring for the first time authority on the city council to license taverns and coffee houses, with the privilege of retailing liquors in the city, repealed the local option law so far as the city was concerned.

(2) The power to license and tax in such a case must mean an exclusive power, and, therefore, the general local option law cannot again be voted into operation in the city. But, even conceding that it can be, the vote must be taken in the town alone, and not in the civil district, the amendment to the charter having at least separated the city from the civil district as a political division.

LOCAL OPTION—KENTUCKY—PETITIONS FOR ELECTION.—

Ky. St. § 2554, providing for local option elections on a written petition signed by voters of each precinct of the territory to be affected equal to 25 per cent of the votes cast in each of said precincts at the last preceding general election, is complied with when separate petitions are filed from every precinct in the territory to be affected, signed by over

25 per cent of the voters in such precincts, as above provided.

Smith vs. Patton (Ky.), 45 S. W. Rep. 459.

LOCAL OPTION—KENTUCKY—APPLIES TO DISTILLERS' LICENSE.—

Ky. St. § 4203, requiring ten days' notice of an application for a license to sell spirituous liquors at retail, and providing that, if a majority of the legal voters in the neighborhood protest, the application shall not be granted, applies to applications by "distillers," the conditions of whose licenses are enumerated in section 4205.

Commonwealth vs. Hawkins (Ky.), 32 S. W. Rep. 409.

LOCAL OPTION—KENTUCKY—REPEAL OF LAW.—

Where the vote under the local option law was, in a certain district, against the sale of liquors, but while such law was in force the legislature amended the charter of a city within that district, authorizing the city council to thereafter grant licenses for retailing liquors in the city, the operation of the local option law, so far as concerned the city, was repealed.

Tabor vs. Lander (Ky.), 27 S. W. Rep. 1056.

LOCAL OPTION—MICHIGAN—POWER OF BOARD OF SUPERVISORS.—

Under act 207, laws 1889, known as the "local option law," the determination by the board of supervisors of the question as to whether or not a sufficient number of electors of a district had petitioned for a special election thereunder, and other preliminary questions, is final, and will not be reviewed by the Supreme Court.

Covert vs. Munson (Mich.), 53 N. W. Rep. 733.

LOCAL OPTION—MICHIGAN—NOTICE, HOW PUBLISHED.—

Under Pub. Acts 1889, No. 207, § 14, relating to local option, and requiring the clerk of the board of supervisors to publish the resolution of prohibition in a newspaper "to be designated by the board," the paper in which the resolution

is to be published must be designated by the board adopting the resolution, though the county printing has already been let to a certain newspaper.

Moran vs. Darby (Mich.), 56 N. W. Rep. 347.

LOCAL OPTION—MICHIGAN—DRUGGISTS LIABLE UNDER.—

A druggist who violates the restrictions imposed by law in selling liquors in a county where the local option law prevails should be prosecuted under the local option law, rather than under the general law, since the exception of druggists from the operation of the local option law (section 1) applies only to such as sell "in compliance with the general law" and not in violation of it.

Bishop vs. Hillsdale Circuit Judge (Mich.), 53 N. W. Rep. 1093.

LOCAL OPTION—MISSISSIPPI—RECORD MUST SHOW FACTS AS TO PETITIONERS.—

Under Code 1892, ch. 37, providing for an election, on petition to the supervisors, to determine whether liquors should be sold, the election is void where the supervisors' record fails to show affirmatively that the petitioners comprised one-third of the qualified electors.

Lester vs. Miller (Miss.), 24 South, Rep. 193.

LOCAL OPTION—MISSOURI—CONSTITUTIONALITY OF.—

Act April 5, 1887, known as the "Local Option Law," is not unconstitutional by reason of its failure to provide for publishing a notice of the special election within the limits of a city to be affected by the results of the vote, but which provides only for notice to be published in some paper "in the county."

State vs. Dugan, Missouri.

LOCAL OPTION—TENNESSEE—SIGNERS OF PETITION MAY TAKE OFF THEIR NAMES.—

Citizens of Monroe County, Tennessee, got up a petition for a local option election, and, after getting the requisite number of names, filed it with the board of supervisors. Afterwards a number of the signers took off their names,

thus leaving the petition without a sufficient number of signers. The prohibitionists insisted that this was contrary to law and took the matter into the courts.

On March 7, 1899, the Supreme Court held that the signers had a right to take off their names and that the petition was left insufficient to require an election.

Buchanan vs. Ferguson, Supreme Court, Tenn., 1899.

LOCAL OPTION—TEXAS—PETITION FOR ELECTION.—

Since the local option law prescribes no requisite for a petition for a local option election, it is sufficient if it expresses in an intelligible manner the desire of the petitioners that a local option election be held.

Dillard vs. State, Texas, 20 S. W. Rep. 1106.

LOCAL OPTION—TEXAS—MANDAMUS TO COMPEL COMMISSIONERS' COURT TO ORDER ELECTION.—

Under Rev. St. art. 3227, as amended by Acts 1893, p. 48, providing that the Commissioners' Court, upon petition of a certain number of qualified voters, shall order an election to determine whether the sale of intoxicating liquor shall be prohibited, mandamus will lie at the suit of such voters to compel the Commissioners' Court to issue the order of election, where they, without right, have refused to do so.

Kimberly vs. Morris (Tex.), 31 S. W. Rep. 808.

LOCAL OPTION—TEXAS—LEGISLATURE CANNOT IMPOSE NEW CONDITIONS WHILE IN FORCE.—

Where the local option law was in force in a precinct, the legislature could not impose by an amendatory act new burdens or obligations upon the people of that precinct pending the operation of such local option law.

Ex parte Bains, 45 S. W. Rep. (Tex.) 24.

LOCAL OPTION—TEXAS—ORAL EVIDENCE OF CONTENTS ADMISSIBLE IN CASE OF LOSS OF PETITIONS TO PROHIBIT SALE OF LIQUOR IN COUNTY.—

Where, in a prosecution for selling liquor in violation of the local option law, it is shown that the various petitions to the County Commissioners' Court, asking that an

election be held in the county to prohibit the sale of intoxicating liquors therein, are lost, oral evidence of the contents is admissible.

Irish vs. State (Tex.), S. W. Rep. 633.

LOCAL OPTION—TEXAS—REQUIREMENTS OF ELECTION ORDER.—

Under a local option statute providing for the submission to the people of the mere issue "For prohibition" or "Against provision," it is not necessary that the order authorizing the election should contain the statutory exceptions in favor of sales for medicinal and sacramental purposes.

Shields vs. State (Tex.), 42 S. W. R. 398.

LOCAL OPTION—TEXAS—PLACE OF SALE.—

Where defendant, while within the limits of a local option precinct, contracted to sell and received payment for several bottles of liquor, which were to be delivered, and were actually delivered, outside of such local option limits, the contract of sale is not a violation of the local option law.

Weldon vs. State (Tex.), 36 S. W. Rep. 176.

LOCAL OPTION—TEXAS—DELIVERY OF LIQUOR TO BE PAID IN KIND IS SALE.—

Where defendant delivered liquor to another to be paid for in other liquor at some future time, the transaction was a sale within the law prohibiting the sale of intoxicating liquors within a local option district.

Keaton vs. State (Tex.), 36 S. W. Rep. 440.

LOCAL OPTION—TEXAS—ONE MAY KEEP LIQUOR FOR ANOTHER.—

The act making criminal the keeping of intoxicating liquors in cold storage for another in a local option district, is repugnant to the constitutional provision guaranteeing to every citizen the free use and exercise of property.

Ex parte Brown, 42 S. W. 554.

LOCAL OPTION—TEXAS—PARTIAL EXEMPTION CONSTITUTIONAL.—

Revised Statutes 1895, authorizing the submission of the question of local option to a vote, is not unconstitutional because it exempts from the operation of the law wine used for sacramental and medicinal purposes.

Sparks vs. State (Tex.), 45 S. W. 493.

LOCAL OPTION—NORTH CAROLINA—NO VESTED RIGHT ACQUIRED BY DEALERS.—

There is no vested right acquired by those engaged in the liquor traffic which prevents its being forbidden as provided in Laws of 1897.

Guy vs. Commissioners (N. C.), 29 S. E. 771.

CHAPTER III.

PLACE OF SALE.

PLACE OF SALE—INTERNAL REVENUE RULING.—

The Internal Revenue Commissioner on January 13, 1890, made the following ruling:

"I am of the opinion that when a person makes a bona fide offer to purchase goods, and directs in the same order that the goods shall be sent by a common carrier, or any one else, to a place designated by him, the price to be paid at the place of delivery, and the order is accepted by the seller, and the goods are separated from the other goods of the seller as the goods of the purchaser, and are delivered to the carrier with instructions to deliver to the purchaser at the place named by him, and collect the purchase money at that place, that the place of sale, under the law of Congress imposing a special tax upon wholesale dealers, is the point at

which the goods are ordered and set apart and delivered to the carrier. The true test is, was the offer on the part of the purchaser a bona fide one to buy, and was it so accepted by the seller? If the purchaser should decline to receive the goods and pay for them, could the seller maintain an action for the price thereof?"

PLACE OF SALE—SALE TREATED AS MADE WHERE COMPLETED BY DELIVERY.—

As ruled in Mathews vs. State, 1894, 18 S. E. Rep. 996, the authority to grant licenses to sell spirituous liquors in Putnam County is vested exclusively in the commissioners of roads and revenues of that county. Delivery, whether made by the seller or his employe, if requisite to complete a sale the contract for which, with payment of the purchase price, was made elsewhere, is contrary to law if the seller has no license authorizing him to sell in the county where the delivery takes place. In such case the sale is to be treated as made, not where the contract was entered into, and the purchase money paid, but where it was completed by delivery.

Doster vs. State (Ga.), 18 S. E. Rep. 997.

PLACE OF SALE—DISTANCE FROM CHURCH OR SCHOOL MEASURED IN DIRECT LINE.—

Under acts 25th Gen. Asem., ch. 63, providing that the business of selling intoxicating liquors shall not be conducted within 300 feet of any church or school building, the distance must be measured on a direct line, and not by the traveled route.

State vs. Greenway (Iowa), 61 N. W. Rep. 239.

PLACE OF SALE—WHERE DELIVERED TO CARRIER.—

Upon order by letter, to be shipped C. O. D., place of sale is where goods are delivered to carrier. Prohibitory laws of buyer's residence do not apply.

Commonwealth vs. Kearns, Kentucky.

PLACE OF SALE—WHERE DELIVERED TO CARRIER.—

Where goods are shipped C. O. D. on request, actual or implied, into a local option county, law of latter county does not apply. The actual sale occurs in county from which shipped.

James vs. Commonwealth, Kentucky.

PLACE OF SALE—WHERE AGENT LIVES WHEN GOODS SENT IN GROSS AND DELIVERED SEVERALLY BY AGENT.—

Where an agent, working on a monthly salary, at A, takes individual orders for beer, and sends them to his principal at B, and the orders are shipped in gross to the agent at A, and he delivers the individual orders, collects the money for them, and forwards it to his principal, the sales are made at A.

People vs. De Groot (Mich.), 69 N. W. Rep. 248.

PLACE OF SALE—GOVERNS, AND LAWS OF PLACE TO WHICH LIQUORS SHIPPED HAVE NO EFFECT.—

Where liquors are bought in one county and directions given for shipment to another county, sale takes place in former county, and laws of the county to which they are to be shipped can have no application.

Aberle vs. Administrator U. S. Dist. Ct., Minn., 1896.

PLACE OF SALE—LEGALITY DEPENDS UPON WHETHER MIDDLEMAN WAS AGENT OF PERSONS ORDERING LIQUOR, OR OF DEALER.—

Defendant, in a local option city, told persons they could order liquor from a dealer in another city, and gave them blank orders, which they filled out, signed and gave to him to forward. They instructed the dealer to send a certain quantity of liquor to the signers in the care of defendant. The liquor was shipped to defendant, who delivered it part at a time, receiving the money for such part as he delivered. Held, that if defendant acted as agent of the persons who ordered the liquor, he was not guilty of selling, but if he acted as agent of the dealer he was guilty.

State vs. Wingfield (Mo.), 22 S. W. Rep. 363.

PLACE OF SALE—DELIVERY OUTSIDE OF SALOON.—

A bottle of liquor was taken out of the dramshop keeper's saloon and delivered to the purchaser, at his request, a short distance down the street, and then paid for. Held not a sale at the license place, and not protected by the license.

State vs. Young, 70 Mo. App. 52.

PLACE OF SALE—AT WAREHOUSE FROM WHICH SHIPPED.—

If goods in a warehouse situated within prohibitory district are sold to be shipped out of such district, place of sale is at warehouse and prohibitory law applies.

State vs. Groves (N. C.), 28 S. W. R. 403.

PLACE OF SALE—SALE FROM WAGON WITHOUT LICENSE IN LOCAL OPTION DISTRICT ILLEGAL.—

Defendant was engaged in wholesale liquor business under a license in Camden County, and drove a beer wagon into Gloucester County, selling beer in the latter county from his wagon. Held, if the goods were retained in the possession of the defendant until paid for then there was no sale until the delivery of the goods, although there may have been a written order sent to defendant in Camden County, and that defendant was indictable for sale without license.

State vs. Schuster, Sup. Ct., Pa., 1898.

PLACE OF SALE—CARRIER IS AGENT OF C. O. D. PURCHASER.—

Where the purchaser, in making his order, instructs the seller to send goods C. O. D., the carrier becomes agent of the purchaser to transmit the price to the seller, and the prohibitory law at the residence of the purchaser does not apply.

State vs. Fleming (Pa.), 1889.

PLACE OF SALE—SALE COMPLETED IN COUNTY WHERE SELLER RESIDES.—

Defendant, having a wholesale bottler's license in P county, received in the regular course of business at his place in that county orders from retailers in M county. On

receipt of the order the liquor was set apart to the purchasers, and charged to them on defendant's books, and was then delivered to them in M county, by means of defendant's own wagon. Held, that defendant was not guilty of selling liquor in M county, since the sale, as between him and the purchasers, was completed in P county.

Commonwealth vs. Hess (Pa.), 23 Atl. Rep. 977.

PLACE OF SALE—EFFECT OF SHIPMENT C. O. D.—CARRIER AGENT OF SELLER.—

The Supreme Court of Vermont has held that sending of liquors from New York to customers in Vermont by express C. O. D. is in legal effect a sale of that liquor in the state of the buyer, the express company being agent of seller.

State vs. O'Neill (Vt.).

PLACE OF SALE—VENUE—INDICTMENT.—

A party residing in Doddridge County sends a postal card through the mail to a licensed wholesale liquor dealer doing business as such in Wood County, directing a package of whisky to be sent him by express C. O. D. The order thus sent having been received in Wood County, and having been complied with by delivering the package, marked "C. O. D.," addressed to the purchaser in Doddridge County, that under the circumstances the sale was made in Wood County, and said wholesale merchant was not liable, under indictment in Doddridge County, for retailing liquors without license in Doddridge County.

State vs. Flanagan (W. Va.), 17 S. E. Rep. 792.

CHAPTER IV.

TRANSPORTATION.

TRANSPORTATION—RAILWAY LIABLE ONLY FOR VALUE AS GIVEN IN BILL OF LADING.—

R. B. Thomas shipped some whisky to Lexington over the defendant's line. In the bill of lading it was stated in the plaintiff's own handwriting that the whisky was worth seventy-five cents per gallon. The whisky was destroyed and Thomas sued to recover, alleging that it was worth $4.50 per gallon. The railroad offered to settle at seventy-five cents per gallon, the value as stated in the bill of lading, but this was refused. In passing upon the case, Judge Field of the Circuit Court said, that unless negligence on the part of the road could be shown, the defendant was liable for the whisky only as valued in the bill of lading by the plaintiff himself. If the defendant was negligent, it was liable for the full value of the liquor.

R. B. Thomas vs. L. & N. Ry., Circuit Court, Kentucky, December, 1893.

TRANSPORTATION—POLICE POWERS OF STATE.—

Statutes 1897, ch. 271, requiring, under penalty of forfeiture, all intoxicating liquors transported for delivery in towns where certain licenses have not been granted to be transported by regular carriers, in packages plainly marked with the kind and the amount of liquor and the name and address of the consignor and consignee, and requiring the carrier to keep a record of all liquors transported, is a proper exercise of the state's police powers.

Commonwealth vs. Intoxicating Liquors (Mass.), 52 N. E. Rep. 389.

TRANSPORTATION—FORFEITURE OF CONVEYANCE.—

Rev. Cr. St., sections 472-474, provide that any person hauling or handling contraband liquor in the night time may

be fined or imprisoned, and that the conveyance used for such purpose may be confiscated. Held, in an action by the owner to recover property so confiscated, that the fact that plaintiff has been acquitted of the criminal charge of illegal transportation is a material circumstance to be considered.

Dobbins vs. Gaines (S. C.), 29 S. E. Rep. 401.

TRANSPORTATION—RAILWAY CONDUCTOR CANNOT TAKE UP MILEAGE BOOKS.—

The Ohio Circuit Court decided that railroads have no right to confiscate a mileage book presented by a person other than the purchaser. A mileage book contains a provision to the effect that if it is presented by any other person than the one whose name is signed to the printed contract the book will be taken up and full fare collected by the conductor. In the case tried at Findlay, a ticket broker who had purchased a mileage book and sold it to a third person sought to recover the value of the book which was taken from the person who presented it for passage. The Common Pleas Court had decided in favor of the railroad company. The Circuit Court reversed the Common Pleas and held that the railroad company had no title to the book; that the title passed to the purchaser, and that while the conductor might have a right, under the contract in the book, to refuse to accept it, he could not confiscate it. The ticket broker was given judgment for the value of the book.

CHAPTER V.

INTERSTATE COMMERCE.

INTERSTATE COMMERCE—STATE LAWS VISITING PENALTY ON CARRIER VOID.—

The act of Congress of August 8, 1890, providing that intoxicating liquors transported into any state, or remaining therein "for use, consumption, sale or storage therein, shall, upon arrival in each state," be subject to the operation of its laws enacted in the exercise of its police powers, attaches to the subject of an interstate shipment only after such shipment has been consummated by the arrival of the goods at their destination and their delivery to the consignee, and a state law which makes a carrier liable to a penalty for transporting such goods within the state before their delivery, except in cases where a certificate has been obtained from state authorities (McClain's Code, Iowa, § 2410), is an attempted regulation of interstate commerce, and void.

Rhodes vs. Iowa, U. S. Sup. Ct., 1898.

INTERSTATE COMMERCE—VERMONT LAW NOT UNCONSTITUTIONAL.—

The prohibitory law of Vermont is not unconstitutional as against interstate commerce clause.

State vs. O'Neill (Vt.).

INTERSTATE COMMERCE—SOUTH CAROLINA REQUIREMENT OF CHEMIST'S CERTIFICATE VOID.—

The requirements of the law of South Carolina that a resident of the state intending to have shipped into the state from another state or foreign country any liquors for his own use, shall first certify such intention to the state chemist, who shall be furnished by the proposed consignor with a sample of such liquors to be tested, and if satisfied of their purity, shall issue to such consignor a certificate authorizing

the shipment, and providing that any liquor transported into the state without such a certificate attached to the package shall be seized and confiscated, is in conflict with the constitution of the United States, and void, as being a substantial interfering with and hampering of interstate commerce by the state, and that such requirement cannot be sustained on the ground that it is merely an exercise of the right of inspection, and so a valid police regulation; since, if the right of the state to require inspection of goods not to be offered for sale within the state exists (which is not decided), no actual inspection of the liquors shipped is provided for.

Vance vs. Vanderhook, U. S. Sup. Ct., 1898.

INTERSTATE COMMERCE—DISPENSARY LAWS NOT UNLAWFUL DISCRIMINATION.

The provision of the dispensary law of South Carolina giving to the state officers exclusive right to purchase all the liquor to be sold in the state, thereby vesting in them the power to restrict sales in the state to the products of one or more states, to the exclusion of the products of other states, does not create or authorize a discrimination which unlawfully interferes with interstate commerce, since every resident of the state has the right, which cannot be affected by state legislation, to purchase from a nonresident liquors which are the product of any state, and to have the same transported into the state for his own use.

Vance vs. Vanderhook, U. S. Sup. Ct., 1898.

INTERSTATE COMMERCE—STATE POLICE LAW.—

Liquors imported by a common carrier from another state, for the personal use of the importer, are under the protection of the interstate commerce law only so long as such personal use continues, and such protection ceases if the liquors are given to another, and in such case they immediately become subject to the police laws of the state.

Donald vs. Scott, U. S. C. C., D. (S. C.), 76 Fed. Rep. 559.

INTERSTATE COMMERCE — KANSAS PROHIBITORY LAW VALID.—

Ferdinand Westheimer & Sons of St. Joseph, Mo., sued Weisman of Leavenworth, Kan., for the value of a barrel of whisky purchased by him. The order for the whisky was secured in 1893 by a traveling agent of the Westheimers, Weisman being at the time engaged unlawfully in selling liquors. Westheimers secured a judgment before a justice of the peace and Weisman appealed to Circuit Court, which set aside the justice's judgment, and Westheimers appealed to the Court of Appeals, claiming that the prohibitory law in Kansas was a violation of the interstate commerce law and an infringement of the federal constitution. The Court of Appeals decided in favor of Weisman and held that the law is a valid police regulation, and that wholesalers cannot recover for goods sold to any person in Kansas not authorized to sell liquors.

Westheimer vs. Weisman, Kansas Supreme Ct., 1898.

INTERSTATE COMMERCE—DOES NOT APPLY TO SELLING BY SAMPLE.—

In 1892 the United States Supreme Court decided in the case of Ficklen vs. Taxing District of Shelby County, Tenn., that the interstate commerce law does not apply to a man selling by samples. Ficklin had an office in Tennessee where he sold entirely by sample on goods which he sold entirely outside of the state. The state, however, taxed him 2½ per cent on all his commissions, and on Ficklen's refusal to pay, the state refused him a renewal of his license to trade. The Supreme Court decided against Ficklin.

INTERSTATE COMMERCE—LIQUORS NOT SEIZABLE IN TRANSIT.—

Judge Conrad of Des Moines, Iowa, released a package of alcohol which was seized in the United States Express office in that city en route from Rock Island, Ill., to Runnells, Iowa. The package was not labeled or marked so as to show its contents, and the state law requires all shipments of liquor within the state to be so marked. The con-

stables seized the alcohol, and claimed that after it once crossed the line and came inside the state it fell under the provision of the statute for the rest of the journey, and was therefore liable to seizure for being unmarked. The Court holds that this was an interstate shipment belonging to interstate commerce, and therefore not subject to state laws until the transit had ended and the liquor become a part of the mass of Iowa property. He therefore ordered that the gallon jug be sent on its way to Runnells undisturbed.

CHAPTER VI.

ORIGINAL PACKAGES.

ORIGINAL PACKAGES—INTERSTATE COMMERCE—RIGHT TO SHIP AND SELL.—

Leisy, a beer manufacturer of Peoria, shipped beer to Keokuk, which was seized in the original packages by Hardin, a state official, as having been sent there in violation of Iowa law. The Supreme Court of Iowa held that the law under which the official acted was valid, and the case was appealed to the United States Supreme Court, which held:

(1) The states of the Union have an undoubted right to control their purely internal affairs, but whenever the law of the state amounts essentially to a regulation of commerce with foreign nations, or among the states, as it does when it inhibits, directly or indirectly, the receipt of an imported commodity, or its disposition, before it has ceased to become an article of trade between one state and another, or another country and this, it comes in conflict with a power which, in this particular, has been exclusively vested in the general government, and is therefore void.

(2) Citizens of one state have the right to import their

beer into another, and the right to sell it, and until it is sold the latter state has no right to interfere by seizure, or any other action, with the goods so imported.

Leisy vs. Hardin, 135 U. S. 100, 10 Sup. Ct., Rep. 681.

ORIGINAL PACKAGE—UNITED STATES ORIGINAL PACKAGE LAW IS CONSTITUTIONAL.—

Rahner, the original package agent at Topeka, Kan., of the firm of Maynard, Hopkins & Co. of Kansas City, Mo., was arrested the day after the original package law of Congress went into effect. He claimed that the law was unconstitutional. The case was appealed from the United States Circuit Court for the District of Kansas to the United States Supreme Court, which held:

(1) The power of the state to impose restraints and burdens upon persons and property in promotion of public health, good order and prosperity is a power always belonging to the states. The power of Congress to regulate commerce among the states, when the subjects are national in their character, is also exclusive, and the failure of Congress to exercise this power in any case is an expression of its will that the subject shall be free.

(2) Intoxicating liquors are subjects of commerce like any other commodity, but laws prohibiting the manufacture and sale of liquor within state limits do not necessarily infringe any constitutional privilege or immunity, this right being vested upon the acknowledged right of the states to control their internal affairs to protect the health, morals and safety of their people by regulations that do not interfere with the powers of the general government.

(3) So, when Congress acted, the result of its action must be to operate as a restraint upon that perfect freedom which its silence insured. Congress has now spoken and declared that imported liquors shall upon arrival in a state fall within the category of domestic articles of a similar nature. And that action is constitutional.

(4) The law of Congress simply removed an impediment

to the enforcement of the state laws in respect to imported packages in their original condition, created by the absence of a specific utterance on its part. A re-enactment of the state law is not required.

Wilkerson vs. Rahrer, U. S. Supreme Court.

ORIGINAL PACKAGE—TAXABLE WHEN MIXED WITH MASS OF PROPERTY IN THE STATE.—

When the importer has so acted on the thing imported that it has become incorporated and mixed up with the mass of property in the state, such as the breaking of the original package, or the transfer to another person in the state, it has lost its distinctive character as an import and has become subject to the taxing power of the state.

Brown vs. Maryland, 12 Wheat., 419.

ORIGINAL PACKAGE—CARRIER CANNOT REFUSE TO TRANSPORT TO PROHIBITION STATE.—

The power to regulate or forbid the sale of a commodity after it has been brought into the state does not carry with it the right and power to prevent its transportation from another state. Therefore a carrier cannot refuse to carry liquor consigned to a point in a state, alleging as an excuse the prohibitory law of such state.

Bowman vs. C. & N. W. R. R., 125 U. S., 465, 1890.

ORIGINAL PACKAGE—DEFINITION.—

The United States Circuit Court has decided that an original package within the meaning of the law of interstate commerce is the package delivered by the importer to the carrier at the initial point of shipment, in the exact condition in which it was shipped. In the case of liquors in bottles, if the bottles are shipped singly, each is an original package, but if a number are fastened together and marked, or are packed in a box, barrel, crate or other receptacle, such bundle, box, barrel, crate or receptacle constitutes the original package.

Guckenheimer vs. Sellers, 81 Fed. 907.

ORIGINAL PACKAGE—BOTTLES ARE NOT.—

Where liquor is shipped from another state in bottles separately wrapped in tissue paper, labeled "original package," and placed in an uncovered box, with hay laid between the bottles so wrapped to keep them from breaking, the fact that the box is not covered does not make the bottles original packages. The box in which they are thus shipped is the original package.

Rion vs. The State, Alabama.

ORIGINAL PACKAGES—BOTTLES ARE.—

When a nonresident delivered bottles of liquor to a carrier, each separately wrapped and labeled, and the carrier without the knowledge of consignor put such bottles into boxes, and thus transported them into Alabama, the bottles, and not the boxes, are "original packages."

Tinker vs. State, Alabama, 11 South. Rep. 383.

ORIGINAL PACKAGES—WHAT CONSTITUTES.—

The defendant was the keeper of what was known as an "original package house," at Spencer, in Clay County, Iowa. He was not the owner of the packages of liquor which he kept for sale. He was the agent of certain parties in Milwaukee, Wis. These parties were lessees of the building, and the same was occupied by the defendant as their agent. They shipped the liquors kept for sale in said building from Milwaukee to Spencer, Iowa, consigned to themselves; and the defendant received them as their agent of said Milwaukee parties. The beer which was kept for sale was put up in bottles at Milwaukee, and sealed and labeled, and for convenience of shipment were placed in open frame boxes with 24 separate compartments. The whisky was in bottles, sealed and labeled, which bottles were, for convenience of shipment, packed in barrels. The defendant removed the bottles from the boxes and barrels, and sold them as they were sealed, and purchasers were not permitted to open the bottles and use the liquors upon the premises. The Supreme Court on appeal held this was

strictly an original package establishment, and was authorized by the decision of the Supreme Court of the United States in Leisy vs. Hardin, 135 U. S., 100, 10 Sup. Ct. Rep., 681. That the separate bottles were original packages—that in the form in which they were put up by the shipper for sale—there can be no doubt. At least such has been the holding of this court. Collins vs. Hills, 77 Iowa, 181, 41 N. W. Rep., 571. And see, also, in re Beine, 42 Fed. Rep., 545. It is proper to observe that the case at bar was heard and determined in court below before the act of Congress relating to the laws of the several states pertaining to the regulation or prohibition of the traffic in intoxicating liquors.

State vs. Coonan, Iowa.

ORIGINAL PACKAGES—WHERE CUSTOMERS DO THE OPENING.—

Where beer, put into sealed bottles and packed in boxes, is sent by a nonresident into this state, consigned to an agent, and the agent, prior to August 14, 1890, merely removes the bottles from the boxes, furnishes corkscrew and tumblers, and allows customers to open for themselves, the sale is in the original packages, and not, therefore, within the prohibitory liquor law.

State vs. Miller, Iowa, 53 N. W. Rep. 330.

ORIGINAL PACKAGES—MUST SELL PACKAGE AS WELL AS CONTENTS.—

A person who keeps a saloon with bar and fixtures, receives as original packages bottles of beer and whisky, and sells the same over his bar to customers, who destroy the seals or wires on the bottles, pull the corks, pour the contents into glasses on the bar, drink the same, and leave the bottles on the bar, is a seller of the contents of original packages, and not the original packages themselves.

Hopkins vs. Lewis, Iowa, 51 N. W. Rep. 255.

ORIGINAL PACKAGE—DEFINITION.—

An original package must be the identical package handled by the interstate carrier. Small pasteboard pack-

ages of cigarettes, bearing the name of the brand and a revenue stamp pasted across the end, cannot be sold as an interstate transaction in defiance of the Iowa anti-cigarette law if more than one package was packed together in its shipment.

McGregor vs. The State, Iowa.

ORIGINAL PACKAGES—BOTTLES ARE NOT.—

Parsons, a peddler vending single bottles of medicine manufactured in another state, and taken from a package in which several bottles were shipped into the state of Missouri, attempted to avoid the payment of state license upon the ground that its imposition was in conflict with the Federal constitution, which vests in Congress the sole power to regulate commerce between the states. On appeal the Supreme Court held:

(1) It is true that, in the absence of any legislation by Congress to the contrary, the importer may determine the form and size of his packages he puts up for shipment, but he must ship them as they are put up, and cannot put a dozen or more bottles in the same box, and then claim that each bottle is a separate original package. They do not become a package until made up or prepared for transportation. Com. vs. Schollenberger (Pa. Sup.), 27 Atl. Rep., 30. The term "to pack" in its ordinary signification, especially when used in reference to carriage, means to place together and prepare for transportation, so as to make up a bundle or bale; and "package" is a bundle or bale made up for transportation. It may consist of a single article; but when separate articles are placed together and prepared for transportation in a bundle, bale or box, or other receptacle, they do not form as many separate and distinct packages as there are articles, though they may be wrapped separately. The case or bale in which separate articles are placed together for transportation constitutes the "original package" in the commercial sense.

State vs. Parsons, Missouri.

ORIGINAL PACKAGES—CITIZEN OF ANOTHER STATE MAY STORE LIQUOR FOR SALE IN SOUTH CAROLINA.—

A liquor dealer who is a citizen of another state has a right to store liquors in original packages within the state of South Carolina for purposes of sale in such packages.

Moore vs. Bahr, 82 Fed. R. 19.

CHAPTER VII.

LICENSE.

LICENSE—ALABAMA—LICENSE NOT NEEDED FOR SALE OF ENTIRE STOCK.—

The statutes prohibiting the sale of liquors without a license do not apply to a sale in one transfer of the entire saloon business.

Smith vs. Heineman, 24 So. Rep. 364.

LICENSE—ARKANSAS—SELLING LIQUOR WITHOUT LICENSE.—

One who solicits others to join with him in the purchase of a quantity of whisky, receives from each the money to pay for the share such person wants, and afterward buys and distributes it among those so joining in the purchase, is guilty of selling liquor without a license.

Hunter vs. State, Sup. Ct., Ark., 1895.

LICENSE—CALIFORNIA—ORDINANCE REQUIRING EVERY ONE WHO SELLS TO OBTAIN LICENSE, NOT VOID ON GROUND OF IMPOSING TAX ON EACH SALE.—

A section of an ordinance providing that "every person who sells liquors must obtain a license" is not void as imposing a tax on each sale, and not on the business of selling, it appearing from the entire ordinance that the intent was to impose the tax on the business of selling.

Ex parte Scube, Col., 57 Pac. Rep. 596.

LICENSE—CALIFORNIA—BOARD HAS ARBITRARY POWER TO REFUSE LICENSE.—

In 1890 the Supreme Court of the United States, in the case of P. Crowley, chief of police of San Francisco, vs. Henry Christensen, appellee, decided that the Board of Police Commissioners of San Francisco had arbitrary power to grant or refuse liquor licenses, and reversed the order of the Circuit Court for the Northern District of California, discharging the prisoner, Christensen, who was charged with selling liquor without license, and remanded the cause with directions to take further proceedings in conformity with the opinion.

LICENSE—CALIFORNIA—FEMALE WAITRESSES.—

An ordinance providing that licenses to sell liquor shall not be granted to persons who have employed females as waitresses is not unconstitutional as being an *ex post facto* law, since it is not a criminal law.

Foster vs. Board of Police Comrs. of City and County of San Francisco, Cal., 37 Pac. Rep. 763.

LICENSE—COLORADO—POWER OF TOWN COUNCIL.—

Mills' Ann. St., § 4403, subd. 18, gives to an incorporated town the exclusive right to license or prohibit the sale of liquor within one mile beyond its boundaries. Mills' Ann. St., ch. 76, gives a general authority to the boards of county commissioners to grant license for the sale of liquor: Held, that the fact that a county license was issued to one selling liquor within a mile of incorporated towns did not exempt him from the operation of an ordinance of the town thereafter passed, requiring a license to be paid by those selling liquor within that distance of the town.

People vs. Raims, Colo., 39 Pac. Rep. 341.

LICENSE—CONNECTICUT—SALE WITHOUT LICENSE, AND KEEPING LIQUORS WITH INTENT TO SELL WITHOUT LICENSE.—

The offense of selling liquors without a license and of keeping such liquors with intent to sell without a license

are distinct offenses, and the fact that an indictment for both of them avers that they were committed on the same day does not raise a presumption that they arose out of one transaction, namely, the sale of liquors without a license, which liquors, up to the time of sale, defendant had kept with intent to sell without a license.

State vs. Ryan, Conn., 37 Atl. Rep. 377.

LICENSE—DELAWARE—ASSIGNMENT FROM HUSBAND TO WIFE NOT VALID.—

Saloonkeeper at Wilmington, Del., sold out by sheriff's sale, but transferred license to his wife before sale. Judge Spruance held that license was included in sheriff's sale, and wife of saloonkeeper did not seem to be the sort of occupant or incoming tenant as contemplated by law.

LICENSE—FLORIDA—NOT TO ISSUE WHERE PERMIT IS GRANTED ON ILLEGAL PETITION.—

A permit granted by the board of county commissioners to sell liquors, wines or beer in an election district, on a petition signed by less than a majority of the registered voters of said district, as shown by the registration list on file at the date of application, is void, and a tax collector will not be compelled by *mandamus* to issue a license to an applicant on such permit.

State vs. D'Alemberte, Florida, 11 South. Rep. 905.

LICENSE—FLORIDA—MUNICIPAL ORDINANCE VOID FOR ARBITRARY DISCRIMINATION.—

An ordinance of a municipal corporation that no license for the sale of malt or alcoholic drinks shall be used within 450 feet of any school or established church at the time said license was granted, without the consent of the council of said municipal body, is void in this: That it permits of an arbitrary discrimination by said council as to personal fitness to engage in the business of retailing—a matter exclusively under statutory regulation.

Ex parte Theisen, Florida, 11 South. Rep. 901.

LICENSE—GEORGIA—WITHIN POLICE POWER AND REVOCABLE AT ANY TIME BY MUNICIPAL CORPORATION.—

Inasmuch as a license to sell spirituous liquors is neither a contract nor a property right in the license, but a mere permit to do what would otherwise be an offense against the general law, it is, when granted by a municipal corporation, subject at all times to the police powers of that corporation; and the latter, in the absence of any charter restrictions upon its authority in this respect may, in the exercise of those powers, revoke the license at any time.

Ison vs. Mayor, etc., of Griffin, Ga., 25 S. E. Rep. 611.

LICENSE — ILLINOIS — CANNOT REQUIRE MAJORITY OF LEGAL VOTERS TO LICENSE PETITION IN CERTAIN DISTRICT.—

An ordinance providing that in a certain district no dramshops license shall be granted unless the applicant shall procure a petition signed by a majority of the legal voters of that district is invalid, as tending to make discriminations and monopolies.

People vs. Swift, 60 Ill. App. Ct., Rep. 395.

LICENSE—ILLINOIS—MUNICIPAL CORPORATIONS MAY LICENSE SALE OF LIQUOR IN ONE PART AND PROHIBIT IN ANOTHER.—

Under Rev. St. Ill., ch. 24, art. 5, § 1, subd. 46, which empowers the president and board of trustees of villages "to license, regulate and prohibit" the sale of intoxicating liquors, they may by ordinance provide for the issuing of licenses in one part of the village, and prohibit the sale of intoxicating liquor in another part of the village.

People vs. Mayor Cregier, of Chicago, Illinois.

LICENSE—ILLINOIS—POWER OF CITY COUNCIL.—

A city ordinance prohibiting the sale of spirituous liquors in quantities of one gallon or more, without first obtaining a license, and providing a penalty for its violation, is within the powers conferred by Rev. St. Ill., ch. 24, upon

the city council "to license, regulate and prohibit the selling or giving away" of such liquors.

Miller vs. Ammon, U. S. C. C., 12 S. C. Rep. 884.

LICENSE—ILLINOIS—SPECIAL ORDINANCE OF CAIRO VOID.—

In 1893 an ordinance was passed by the city council of Cairo, Ill., which provided that all liquor dealers in Cairo who sold in quantities above one gallon should pay a special license of $100. The ordinance also provided that retail dealers who paid the $500 license required of them, and who saw fit to sell at wholesale also, were exempt from the special tax of $100.

On the grounds that the ordinance was a form of class legislation, Feuchter Bros. resolved to make a test case of it. The case was first tried before a justice of the peace and when the city was beaten there it appealed to the Circuit Court. Here again the case was decided against the city. The city then took the case to the Appellate Court. The case was given a thorough hearing and the judgment of the Circuit Court affirmed. The case was then carried up to the Supreme Court and the judgment of the Appellate Court was sustained.

Feuchter Bros. vs. Cairo, Ill., Sup. Court of Illinois, Dec., '05

LICENSE—INDIANA—APPLICATION FOR LICENSE—ACT OF BAR TENDER.—

No evidence having been introduced that the bartender previously employed by the applicant for a license was a competent or careful person, it was error to instruct that if one employs a competent and careful person as bartender, and gives him positive instructions that he is to comply with the law, and not to violate it, and, notwithstanding this, the bartender, in the absence of the applicant, and without his knowledge, violates the law, this fact alone would not deprive the applicant of his right to a license.

Pelley vs. Wells, Ind., 41 N. E. Rep. 355.

LICENSE—INDIANA—BOND—EVEN IF INVALID, IF ACCEPTED IN GOOD FAITH, SALES UNDER IT NOT CRIMINAL.—

Where a bond given on the grant of a license to sell liquor was executed and accepted in good faith, and all other requirements of the statute were complied with by the applicant, sales made under the license granted would not constitute a criminal offense and establish unfitness to be intrusted with the license, though the bond proved invalid for want of the principal's name.

North vs. Barringer, Ind., 46 N. E. Rep. 531.

LICENSE—INDIANA—WOMAN CANNOT HOLD LICENSE.—

Anna C. Hamilton was the owner of a saloon at Columbus, though she resided in Jackson County, and was sued to collect a bill for liquors sold the manager of the saloon for her benefit, and which she refused to pay. There was an agreed statement of the facts. In the trial court it was held that a woman could not hold a saloon license and could not contract a valid debt in that business. The plaintiffs appealed and the Supreme Court sustained the decision of the court below.

Woodford vs. Hamilton, Supreme Court Indiana, 1894.

LICENSE—INDIANA—MAY BE REVOKED AT ANY TIME.—

The Supreme Court of Indiana has decided that a municipality may prescribe the limits within which liquors shall be sold. The town of Muncie passed an ordinance establishing certain restrictions as to where license might and might not be used. John Shea undertook to break down the ordinance, and brought the case to the Supreme Court. The Court declared that a liquor license is merely a permit which may be revoked at any time when the public good requires it, and that the power to regulate the liquor traffic is a part of the police right of the city, which cannot be surrendered by any contract which the city may make.

LICENSE—INDIANA—MUST NOT ASSUME THAT ILLEGALITY WILL TAKE PLACE.—

The fact that the granting of a license to retail liquors in a certain room would violate Acts 1895, p. 250, sec. 4, pro-

viding that the room shall be so arranged that all parts of it can be seen from the street or highway, and imposing penalties for its violation, is not a ground for refusal to grant such license.

Gates vs. Haze., Ind. 50 N. E. Rep., 299.

LICENSE—INDIANA—NOT A CONTRACT.—

The Supreme Court of Indiana, in the case of the State vs. Gebhardt, holds that a license to engage in the liquor traffic is not a contract or grant, but a mere permit, at all times within the control of the legislature. That the legislature may lawfully require a saloonkeeper to securely close his place of business, and permit no person to enter during the times when the sale of intoxicating liquors is forbidden. That the law requiring liquor sellers to conduct their business in a room where no other kind of business is carried on, and prohibiting music or devices for amusement from being permitted in the saloon, is a valid restriction. The Court of Appeals of New York laid down the same doctrine some years ago in the case of the Metropolitan Board of Excise vs. Barrie (34 N. Y., 657), which was reaffirmed by the same court in a case brought before the court by the Liquor Dealers' Association of Albany.

LICENSE—INDIANA—SALOONKEEPER CANNOT HAVE A PARTNER.—

Intoxicating liquor can be legally vended at retail only by virtue of a license issued by the board of commissioners and such license cannot be issued to two or more persons as partners.

After reviewing the statutes on the subject the Supreme Court of Indiana concludes that, as two or more persons are inhibited from obtaining a license jointly as partners, they cannot engage as partners in retailing intoxicating liquors under the law, and one person cannot be held liable as the silent partner of another for liquor purchased for the saloon.

Spaulding vs. Nathan, Nov., '98, Sup. Ct. Indiana.

LICENSE—INDIANA—NOT SUBJECT TO COLLATERAL ATTACK.—

When, after proceedings before the board of commissioners to obtain a liquor license, an appeal is taken to the Circuit Court, and a judgment there rendered granting the license, such judgment, though possibly erroneous, is not void; and, until it is reversed, the right of the applicant to all the privileges of the license cannot be collaterally attacked, even by the state.

Ludwig vs. State, Ind., 48 N. E. Rep., 390.

LICENSE—INDIANA—REMONSTRANCE AGAINST LICENSE CAN BE THROUGH AUTHORIZED ATTORNEY.—

Under Rev. St. 1894, § 7278 (Rev. St. 1881, § 5314), authorizing any voter of the township wherein an applicant for a license desires to retail intoxicating liquors to remonstrate in writing against the granting of the license to him on the ground of his immorality or other unfitness, the right of such voter or voters may be exercised through the agency of a duly authorized attorney, and the remonstrance cannot be rejected because the remonstrators' names were signed by such attorney.

Castle vs. Bell, Indiana, 44 N. E. Rep 2.

LICENSE—IOWA—CONSENT OF ADJOINING PROPERTY OWNER.—

A citizen purchased a piece of property adjoining a saloon in Creston, Iowa, and afterward petitioned the court to grant an injunction against the saloon, restraining the owners from conducting the same on the ground that they had not secured the consent of the new owner of the property.

The District Court held that as the saloonman had secured the consent of the previous owner it was quite sufficient, and the injunction was denied.

LICENSE—IOWA—NO REFUND OF MULCT TAXES.—

In the cases of F. M. Hubbell and A. Aborn and other property owners against Polk County, the Supreme Court of Iowa has decided that property is liable for $600 mulct

tax each year if saloons are conducted in or on them for more than half of the year for which the tax is levied. In these cases property owners tried to secure a refund of the payments made for the last quarter of the year 1895. The District Court refunded the quarter of the $600, but the Supreme Court on appeal decides that the full year's tax must be paid, the business having been conducted more than half a year.

Hubbell vs. Aborn, 73 N. W. Rep. 578.

LICENSE—IOWA—RIGHT TO SELL.—

Under Acts 25th Gen. Assem., ch. 62, § 17, providing that after a written statement of the consent to the sale of liquor in towns having over 5,000 inhabitants, signed by a majority of the voters residing in the city, shall have been filed with the county auditor, the payment of a certain tax shall, on certain conditions, be a bar to a prosecution for selling liquor, the filing of such a statement by the auditor is not a judicial determination of its sufficiency, but is a mere ministerial act, and therefore is not conclusive or *prima facie* evidence, on a collateral attack, of the sufficiency of the statement.

State vs. Ashert, Iowa, 63 N. W. Rep. 557.

LICENSE—IOWA—SALE NOT LEGAL FOR PARTNER.—

A permit to sell intoxicating liquors, to obtain which the applicant must, *inter alia*, prove that he has not violated the liquor law and is not addicted to drink, will not protect a partner of the permit holder.

State vs. McConnell, Iowa, 57 N. W. Rep. 707.

LICENSE—KENTUCKY—APPLICATION BY DISTILLER FOR LICENSE TO SELL LIQUOR—NOTICE.—

First—The provisions of section 4203 of the Kentucky Statutes requiring notice of an application for license to sell liquor applies to applications by merchants, druggists or distillers, under section 4205, as well as to applications by other persons, and the case of Evans vs. Commonwealth, 95 Ky., 231, was not intended to hold otherwise.

Second—By the provisions of section 4205 a druggist in his business as such may sell "in quantities less than a quart for medical purposes on the prescription of a regular practicing physician," and this he may do without a license and free from any of the requirements or provisions of section 4203.

Commonwealth vs. Hawkins, Ky. Court of Appeals, 1895.

LICENSE—KENTUCKY—SUNDAY SALE—NOT SALE WITHOUT LICENSE.—

First—It appearing under an indictment for selling liquor without a license, that the defendant had a license but that the sale was made on a Sunday, it was error to instruct the jury that the license was no protection, as that authorized the defendant's conviction of another offense than that charged in the indictment.

Second—The accusatory part of the indictment fixed the offense and the averment that the offense was committed by selling on Sunday was mere surplusage, and if the defendant had not shown the license the court could have procured a conviction if the proof had shown the sale to have been on any day within the year prior to the finding of the indictment.

Baer vs. Commonwealth, Oct. 28, '91 Superior Court, Ky

LICENSE—KENTUCKY—SALES BY PHYSICIAN.—

On a prosecution of one for selling liquor after his license had been revoked, it was error to reject evidence offered by defendant tending to prove that he was a druggist, and the family physician of the person to whom the liquor was sold, and that he sold the liquor as an ingredient of a prescription put up by him at the instance of such person as a medicine, in good faith.

Lindsay vs. Commonwealth, Ky., 35 S. W. Rep. 269.

LICENSE—KENTUCKY—ISSUED TO FIRM, PROTECTS REMAINING PARTNER AFTER DISSOLUTION.—

When a license to retail liquors has been issued to a firm, and one of the partners has bought out the other, the

license still protects the remaining partner in selling at the place and during the time for which it was issued.

Commonwealth vs. James, Ky., 32 S. W. Rep. 219.

LICENSE—LOUISIANA—PLANTER WHO SELLS ONLY TO EMPLOYES REQUIRES LICENSE.—

A planter or farmer keeping a store on his plantation, and selling goods and liquors to his employes exclusively, falls under the terms of the law exacting a license from everyone "doing business of selling at retail."

Thibaut vs. Kearney, La., 12 South. Rep. 130.

LICENSE—MARYLAND—CONSTITUTIONAL LAW—VALIDITY.—

Act 1894, ch. 113, requiring traders in the city of Baltimore to take out separate licenses to carry on business in disconnected buildings, does not violate the bill of rights (article 15), providing that every person ought to contribute his proportion of taxes according to his actual worth in property, as a license tax is not a property tax, but a tax "for the good government and benefit of the community."

Rohr vs. Gray, Md., 30 Atl. Rep. 632.

LICENSE—MASSACHUSETTS—LAW LIMITING RETAIL LICENSES IS VALID.—

The limitation of the number of licensed places within the territory of a town or city is a reasonable exercise of the police power, and therefore is not in conflict with the constitution of the commonwealth or the fourteenth amendment to the constitution of the United States.

Sup. Ct., Mass., Jan. 9, 1897.

LICENSE—MICHIGAN—RIGHT OF ADMINISTRATRIX TO CONTINUE BUSINESS.—

Under Act No. 313, Pub. Acts, 1887, prohibiting an applicant from engaging in retailing intoxicating liquors until a bond, approved by the proper body, is filed with the county treasurer, and the tax paid, the right to carry on the business is in the nature of a personal license, and an adminis-

tratrix cannot continue a business established by her decedent under a payment of the tax by him.

People vs. Sykes, Mich., 56 N. W. Rep. 12.

LICENSE—MICHIGAN—RETAIL DEALERS—ALL WHO SELL BY THE DRINK.—

Under a criminal prosecution for violating Pub. Acts 1887, No. 313, § 7, which provides that it shall be unlawful for any person to engage in the business of selling spirituous liquors without the payment of a tax, a conviction can be had for selling two glasses of whisky, even though defendant was the servant of one who had paid the tax for the sale of malt liquors, as by section 2 (3 How. Ann. St., § 2283, c. 5) all persons who sell any spirituous liquors by the drink are retail dealers.

People vs. Metzer, Michigan, 54 N. W. Rep. 639.

LICENSE—MICHIGAN—COUNTY TREASURER NO RIGHT TO RECEIPT FOR TAX BEFORE FILING BOND.—

Under the liquor tax law, which prohibits the applicant for a license from engaging in the saloon business until his bond is approved and filed with the county treasurer, such treasurer has no right to receive and receipt for such tax before the filing of the bond.

Attorney-General vs. Wayne County Treasurer, Mich., 1892.

LICENSE—MICHIGAN—TWO OR MORE BARS MAY OPERATE IN SAME HOUSE UNDER ONE LICENSE.—

The Supreme Court of Michigan ruled July 1, 1893, in brief that two or even a greater number of bars may be conducted for the sale of liquor under one license, provided they are in the same building and operated by the same person who occupies the entire premises.

Courtright vs. Newaygo.

LICENSE—MISSISSIPPI—PETITIONS.—

Code Miss., section 1103—providing that an applicant for a liquor license must file a petition signed by a majority of the voters; that it shall lie over one month for consideration,

and for the reception of counter petitions; and that any name found on both petitions shall be counted against the granting of the license,—does not preclude one who has signed both a petition and a counter petition from withdrawing his name from the counter petition by signifying his desire therefor by still another written petition.

Perkins vs. Henderson, Miss., 9 South. Rep. 897.

LICENSE—MISSISSIPPI—REQUIRED FOR EACH BAR.—

A retail liquor dealer owned two buildings, with separate entrances on two streets, with a partition wall at the rear of them, and in each building maintained a barroom, complete in its appointments and attendants, and in no way connected with each other, except that a doorway had been cut through the partition wall: Held, that the dealer maintained two separate and distinct places of business, within the meaning of the law relating to intoxicating liquors.

Adams vs. Fraigicomo, Miss., 12 South. Rep. 552.

LICENSE—MISSOURI—STATE AND CITY LICENSES REQUIRED IN CITIES OF OVER 200,000 INHABITANTS.—

Under Acts 1893, p. 149, creating the office of excise commissioner in cities of over 200,000 inhabitants, giving him exclusive power to grant dramshop licenses, and requiring payment to him of $3.00 fee for granting each license, a dramshop keeper in such city must obtain from him two licenses—one from the state, the other from the city, as theretofore required by acts 1891, p. 128, and by the city ordinances—and for each license the commissioner is entitled to his fee.

State vs. Bell, Mo., 24 S. W. Rep. 765.

LICENSE—MISSOURI—SALE WITHOUT LICENSE.—

Where a statute authorizes a city to collect a license tax on liquor sellers, the power to punish them for selling without a license is implied.

City of Warrensburg vs. McHugh, Mo., 27 S. W. Rep. 523.

LICENSE—NEBRASKA—VOID IF ISSUED ON CREDIT.—

The county, city and village boards of this state have no authority to issue liquor license on credit, and a license issued without payment in full of the fee prescribed therefor is void.

Zielke vs. State, Neb., 53 N. W. Rep. 1010.

LICENSE—NEBRASKA—PHYSICIANS AND DRUGGISTS WITH PERMITS EXCEPTED FROM LICENSE LAW.—

Under the act amendatory and supplemental of chapter 50 of the compiled statutes of 1885, entitled "Liquors," it is unlawful for any person to keep for the purpose of sale, without license, any malt, spirituous, or vinous liquors. Physicians or druggists having permits for the sale of liquors for medicinal, mechanical, chemical or sacramental purposes are excepted from the operation of the act.

State vs. Cloyd, Nebraska, 52 N. W. Rep. 579.

LICENSE—NEBRASKA—NOTICE IN NEWSPAPER OF APPLICATION.—

Notice of an application for a license to sell intoxicating liquors must be published at least two weeks in a newspaper published in the county, having the largest circulation therein, before any action can be taken on the application. When the notice is inserted in a daily paper, it must be published in it daily for the statutory period.

Rosewater vs. Pinzensham, Neb., 57 N. W. Rep. 563.

LICENSE—NEBRASKA—RIGHTS OF REMONSTRANTS AGAINST LICENSE.—

Where several persons join in a remonstrance and objection to the granting of license to an applicant to sell liquors, it is the duty of the board to which the application is addressed to set a time for the hearing thereof, allowing the objectors a reasonable opportunity to procure the evidence upon which they rely to defeat the application.

State vs. Coleman, Nebraska.

LICENSE—NEBRASKA—MANDAMUS.—

A board upon which is imposed the duty of hearing and determining applications for licenses to sell liquors will be compelled, by mandamus, to convene, and revoke a license granted, where the essential proceedings requisite to the granting of a lawful license have not been complied with.

State vs. Johnson, Neb., 55 N. W. Rep. 874.

LICENSE—NEBRASKA—SCHOOL DISTRICTS.—

Moneys arising from a license granted by a village for the sale of intoxicating liquors belong to the school district in which such village is located, and must be applied to the support of the common schools in said district.

Guthrie vs. Hester, Neb., 66 N. W. Rep. 853.

LICENSE—NEBRASKA—LICENSEE ENTITLED TO REPAYMENT FOR UNEXPIRED TIME WHEN LICENSE IS CANCELLED.—

It is the settled law of this state, where a liquor license has been issued by a city council, and on appeal such license is canceled, that the licensee is entitled to a repayment *pro tanto* of the sum paid for the same, for the unexpired time.

Chamberlain vs. City of Tecumseh, Neb., 61 N. W. Rep. 632.

LICENSE—NEBRASKA—NOTICE OF APPLICATION.—

Where the matter published in each of two editions of a daily paper is not substantially the same, and each edition has a different list of subscribers, notice of an application for liquor license is required to be inserted in but one edition thereof daily for the requisite length of time; and its circulation alone is to be considered in determining whether the proper newspaper was selected.

Feil vs. Kitchen Bros. Hotel Co., Neb., 77 N. W. Rep. 344.

LICENSE—NEW JERSEY—MUST NOT BE EXCESSIVE.—

The Supreme Court of New Jersey has declared unconstitutional the law forbidding the sale of liquors within one mile of Ocean Grove, a prohibition camp-meeting resort. The court also holds invalid that provision of the law of 1889 which undertook to give boroughs, villages and town-

ships the right to determine by popular vote the amount to be charged for liquor licenses within their borders. Under the operation of that law in some localities the license fee was placed at a practically prohibitive rate, while in others it was fixed at the minimum rate established by the statute. Thus in Strafford, a township with a population of but 1,000, the rate was placed at $2,000. The court does not absolutely hold that rates may not be fixed in the manner provided, but says that a license fee cannot be fixed, even by popular vote, at so great an amount as to be prohibitory of license.

LICENSE—NEW JERSEY—NOT REVOCABLE FOR SUNDAY SELLING.

The licenses of saloonkeepers who are fined for violating the Sunday law cannot be revoked on that account. That would be punishing a man twice for the same offense, which the court holds to be contrary to the settled rules of common law in the case of

Albert Lambert, a convicted saloonkeeper of Rahway, N. J., Sup. Ct. Decision.

LICENSE—NEW JERSEY—COUNTY LICENSE NO DEFENSE AGAINST PROCEEDINGS UNDER CITY ORDINANCE.—

In a proceeding under the ordinances of the excise board of the city of Camden against a person for selling spirituous liquors without a license, the defendant cannot defend under a license granted by the board of license commissioners for Camden County, organized under the act of 1891, p. 221.

State vs. City of Camden, N. J., 28 Atl. Rep. 82.

LICENSE—NEW YORK— WHEN ASSIGNED FOR CREDITORS, FILING OF ASSIGNMENT OR POSSESSION OF CERTIFICATE UNNECESSARY.—

Where a liquor tax certificate is assigned for value as against creditors of the assignor, neither filing of the assignment nor possession of the certificate assigned was necessary.

D. M. Kochler & Son Co. vs. Fiebble, 47 N. Y. Supp. 369.

LICENSE—NEW YORK—SALOON LICENSE ACTUAL PROPERTY.—

Sitting in Supreme Court in Brooklyn, N. Y., Judge Clement decided in 1896 that a saloon license is actual property, that its mortgage or sale must be recognized by the excise authorities issuing it, and that the mortgagee has a right to procure its sale in the event of failure to pay a mortgage in which it is included. Further, the court decided that even after the expiration of a license the mortgagee has a lien on it, and is entitled to the proceeds of its sale because of the privilege of renewal it inherits.

LICENSE—NEW YORK—TO SELL WITHIN PROHIBITED DISTANCE OF CHURCH OR SCHOOL.—

Laws 1892, ch. 101, as amended by laws 1893, ch. 180, § 43, provide that no person who shall not have been licensed prior to the passage of this act shall hereafter be licensed to sell liquors in any building for which a license does not exist at the time of the passage of the act which shall be within a certain distance of a church or school building: Held, that a person was not entitled to be licensed to sell liquor in a building within the prohibited distance because at the time of the passage of the act he was licensed to sell liquors in another part of the city.

People vs. Murray, N. Y., 42 N. E. Rep. 584.

LICENSE—OHIO—RIGHT UNDER OHIO DOW LAW TO STORE STOCK IN COOLER.—

One who traffics in spirituous, vinous, malt or intoxicating liquors, at a regular place of business, and pays the assessment of $250 therefor, as required by section 8092, subd. 8, Rev. St., known as the "Dow Law," has the right to store all or a part of his liquors in a cooler or building separate and apart from his regular place of business, without paying a second assessment on account of such cooler or building, provided no purchases or sales of such liquors be made at such building or cooler.

Hanson vs. Luce, Ohio, 34 N. E. Rep. 435.

LICENSE—OKLAHOMA—MALT LIQUOR SALE ILLEGAL IN OKLAHOMA.—

Under the organic act, providing that Laws Neb., ch. 50, entitled "Liquors," shall be in force in the territory, but no license shall be issued thereunder, taken in connection with said chapter 50, which makes it a misdemeanor to sell malt liquors without a license, the sale of such liquors is illegal.

Kelly vs. Courter, Oklahoma, 30 Pac. Rep. 372.

LICENSE—PENNSYLVANIA—DEALER NOT BOUND BY ORAL AGREEMENT.—

The Supreme Court of the state of Pennsylvania has decided a case bearing upon the practice of the local licensing courts in the matter of making private agreements with liquor dealers. According to the ruling of the Supreme Court, a liquor dealer who obtains a license from the licensing court and pledges himself to certain conditions in order to obtain it is not bound by such an agreement, the licensing courts not being authorized to make such contracts. The case was one in which a dealer obtained a license upon the understanding that he would not be an applicant for a license in the following year. The dealer repudiated his promise, and the Supreme Court sustains his action.

LICENSE—PENNSYLVANIA—BREWER CAN PAY SALOON LICENSE OF A PHILADELPHIA SALOONKEEPER.—

A saloonkeeper borrowed $3,000 from a brewing company at the time his license was granted and gave a judgment note for the amount. Judgment was entered upon the note, and the saloonkeeper then took a rule to have it set aside on the ground that he did not owe that sum, part of the money having been used in the purchase of the license. Judge Gordon sustained the plea, deciding that it was against the law for an outside party to have an interest in a saloonkeeper's license, and that no recovery could be made on a debt secured in this manner. The Supreme Court completely reversing this ruling, and decided that there was nothing in the saloonkeeper's representations on which collection of the judgment could be defeated.

Germantown Brewing Co. vs. Booth, Sup. Court Pa., July, 1894.

LICENSE—PENNSYLVANIA—MAY BE REFUSED ARBITRARILY.

A license may be refused without assigning any reason therefor if it appear that such decision is the result of consideration.

In re Sperring, 7 Pa. Super. Ct., 131.

LICENSE—PENNSYLVANIA—STOCKHOLDERS IN DISTILLING OR BREWING COMPANY NOT ENTITLED TO LICENSE.—

Stockholders in distilling or brewing companies are not permitted to take out a license to sell liquor at retail.

In re Consumers' Brewing Co.'s Licenses, 7 Pa. Dist. R. 193.

LICENSE—TEXAS—CONSTITUTIONALITY OF LAW.—

The Texas law, requiring an applicant for liquor license to execute in advance a bond, in the penalty of $5,000, payable to the state, and conditioned that he will not sell liquor to any person after having been notified by an officer, or by certain relatives of such person, not to do so, any of whom are authorized to sue on the bond in case of a breach; and further imposing a state and county occupation tax, and requiring payment of all taxes a year in advance, is not in conflict with the fourteenth amendment to the constitution of the United States; providing that the privileges and immunities of citizens shall not be abridged by state laws, and that no state shall deprive any citizen of property without due process of law, nor deny to any person the equal protection of the laws.

Giozza vs. Tiernan, U. S. S. C., 13 S. C. Rep. 721.

LICENSE—TEXAS—WHICH DID NOT INDICATE PLACE OF SALE.

Defendant, having a license to retail intoxicating liquors, which did not indicate the house in which the liquor should be sold, as required by law, set up a bar in his "grocery" building, and also one in an adjacent building designated as his "saloon," where he sold liquor by the drink and posted his license: Held, that these facts were insufficient to support an indictment for selling liquor without a license.

Pearce vs. State, Tex., 32 S. W. Rep. 697.

LICENSE—TEXAS—PAYMENT OF INTERNAL REVENUE TAX MAY BE INTRODUCED IN EVIDENCE IN TEXAS.—

On a prosecution for selling intoxicating liquors without a state or county license, the paying of an internal revenue tax to the United States for selling liquor may be shown by a copy of entries from a book kept in the internal revenue office, which, under the internal revenue laws, is required to show the names of persons who have paid such tax.

Gersteman vs. State, Tex., 33 S. W. Rep. 357.

LICENSE—WISCONSIN—IS NOT TRANSFERABLE.—

Peter J. Backes was granted a license by the town board of Spencer, Marathon County, Wis., July 6, 1897, and a few months later assigned his license to one Bayne. The town board sanctioned the transfer. After he had sold liquor under this license for several weeks he was arrested, charged with selling liquor without a license, and on appeal the Supreme Court held:

First—The powers of the town board (which is on an equal footing with the common council) are purely statutory. It could only exercise such powers as were expressly granted to it by statute, or necessarily implied from the powers so granted.

Second—A license is granted as a mere privilege to be enjoyed while the conditions and restrictions are complied with, and implies special confidence and trust in the licensee. From the very nature of things such a license is not assignable at common law. The fact that Bayne rented the saloon from Backes, and took an assignment of his license, therefore, gave him no authority to sell under the license issued to the latter.

State vs. Bayne, Wis., 75 N. W. Rep. 405.

LICENSE—WISCONSIN—INJUNCTION WILL NOT LIE, AT SUIT OF ONE WHO WILL SUFFER NO LOSS BY ISSUANCE OF LICENSE.—

Equity will not enjoin municipal officers from granting licenses for the sale of intoxicating liquors at the suit of a

private individual who will suffer no special damage by reason of such licenses being granted.

Nast vs. Town of Eden, Wis., 62 N. W. Rep. 409.

LICENSE—WISCONSIN—POWERS OF LEGISLATURE.—

The licensing of intoxicating liquors is an exercise of the police power, and not of the taxing power of the state to raise revenue.

Rock County vs. City of Edgerton, Wis., N. W. Rep. 201.

LICENSE—WISCONSIN—PAYMENT.—

Though Rev. St., § 1549, providing that a liquor license shall not be issued till the license fee is paid, does not require that the fee shall accompany the application, one who, on applying for a license, pays a portion of the fee and opens his saloon, cannot, on a license being denied and his saloon closed because of his failure to pay the balance, recover the amount paid.

Hague vs. City of Ashland, Wis., 65 N. W. Rep. 508.

LICENSE—WISCONSIN—BREWER'S AGENT—MUST BE LICENSED TO SELL IN TOWNS OTHER THAN WHERE BREWERY IS LOCATED.—

Under Gen. Laws 1885, ch. 296, providing that, if any person sells any intoxicating liquor in any quantity without first having obtained a license therefor, he is guilty of a misdemeanor. The agent of a brewing company who sells beer without a license to a dealer in a town other than the one in which such company's brewery is located is guilty of such offense.

Mayer vs State, Wisconsin, 53 N. W. Rep. 444.

LICENSE—WYOMING—POWER OF CITY.—

A city ordinance provided that, upon application for a license to sell intoxicating liquors, and compliance with certain requirements, such license should be issued, and that all licenses should be subject to the ordinances and regulations in force at the time of the issuing thereof. Rev. St., § 161, invested the city with power to enact ordinances to

"levy and collect taxes on saloons, liquor sellers, and regulate the same by ordinances." Held, that the city had the right to prescribe the locality in which such business should be permitted.

State vs. City Council of City of Cheyenne, Wyo., 52 Pac. Rep. 975.

LICENSE—WYOMING—DISCRETION AS TO ISSUING.—

Discretion as to issuing licenses for the sale of intoxicating liquors within certain limits is held to be properly granted to the council by an ordinance, where there is charter authority to enact ordinances taxing and regulating that business. But it is held that such discretion must be reasonably exercised.

State of Wyoming, Noble vs. Cheyenne, 40 L. R. A. 710.

CHAPTER VIII.

MUNICIPAL POWER.

MUNICIPAL POWER.—COUNTY SUPERVISORS HAVE NO POWER OVER CORPORATE TOWNS.—

Roach, a saloonkeeper of Hanford, was arrested for violating an order of the county supervisors, which prohibits the sale of intoxicants between 10 p. m. and 5 a. m. Roach's attorney contended that since he held a license granted by the corporation of the town of Hanford, the order of the supervisors must be inoperative. In other words, the contention was that the supervisors have no police power within the limits of an incorporated town or city, and the Supreme Court upholds this contention. By section 11, article XI of the constitution, equal power is given both town and county governments, and it is held

that one may not conflict with the other in matters of police regulations.

Santa Clara Supervisors vs. G. Sherrer, Sup. Court, California, October, '94.

MUNICIPAL POWER—MAY BE DELEGATED BY STATE.

The general rule is that a state legislature has authority to regulate, control and restrain the traffic in intoxicating liquors within its own borders. Such authority belongs to the police power of the state, and may, subject to constitutional restrictions, be delegated to the local legislative bodies of municipal corporations.

Keilkope vs. City of Denver, Colo., 25 Pac. Rep. 535.

MUNICIPAL POWER—COUNTY IN GEORGIA CANNOT LEVY ARBITRARY TAX.—

The Supreme Court of Georgia has decided that a county can exercise only such powers as are conferred on it by law; therefore, when the county authorities of a given county imposed an arbitrary tax of fifty dollars for the year 1897 on all dealers in spirituous or malt liquors, etc., doing business in that county, relying for the power so to do upon the provisions of section 405, the imposition of such tax was unlawful.

Albany Bottling Co. vs. Commissioners, 1898.

MUNICIPAL POWER—ORDINANCE AGAINST SOLICITING ORDERS OVERRULED BY STATUTE OF STATE ON THE SAME SUBJECT.—

Although soliciting orders was, by a valid municipal ordinance, made an offense against the corporation, at a time when such an act was not indictable under the criminal laws of this state, the subsequent enactment by the General Assembly of a statute making this identical act a crime or misdemeanor deprived the municipal authorities (they having no jurisdiction over state offenses) of the power to try and punish offenders for committing the act in question.

Strauss vs. Mayor, etc., of Waycross, Ga., 25 S. E. Rep. 329.

MUNICIPAL POWER—CITY MAY PROHIBIT DRUNKENNESS BY ORDINANCE.—

Where express authority is given to a city by its charter to prohibit drunkenness within its borders, an ordinance passed in pursuance of that power prohibiting public drunkenness is constitutional, as an exercise of a proper delegation of the police power.

City of Gallatin (Mo.) vs. Tarwater, 44 S. W. 750.

MUNICIPAL POWER—CANNOT PROHIBIT SALE OF HOP TEA.—

A city ordinance prohibiting the sale of hop tea and other liquors containing alcohol in insufficient quantities to intoxicate, and commonly used as a beverage, is unauthorized and void.

Grant vs. City of Fontana (Kansas), 50 Pac. 104.

MUNICIPAL POWER—STATE PROHIBITION IN KANSAS DOES NOT PREVENT ENACTMENT OF CITY ORDINANCES.—

The passage of the prohibitory liquor law by the state legislature does not prevent cities from enacting ordinances providing for the control of the liquor traffic within the limits of such cities.

In re Thomas, Kan., 37 Pac. Rep. 171.

MUNICIPAL POWER—ORDINANCE VOID IN ONE PART, NOT INVALIDATED IN OTHER PROVISIONS.—

A provision of a county ordinance, which undertakes to prescribe the punishment of a person conducting a saloon without a license, and which is void as being in contravention of Pen. Code, §§ 19, 435, which fix such punishment, does not invalidate the other provisions of the ordinance; hence, on a conviction thereunder, the punishment fixed by the statute may be imposed.

Ex parte, Stephen, Cal., 46 Pac. Rep. 86.

MUNICIPAL POWER—AUTHORITY TO DESTROY LIQUOR IN ANTICIPATION OF RIOT DENIED.—

The power of a city council to order the destruction of all intoxicating liquors in the city, and pledge the faith of the city to pay for them, in anticipation of riot, lawlessness

and mob, as in the evacuation of Richmond in April, 1865, is denied in Wallace vs. Richmond (Va.), 36 L. R. A., 554, overruling the prior decision in that state which had been followed by the Supreme Court of the United States in another case growing out of similar facts.

MUNICIPAL POWER—ORDINANCE EXCEEDS CHARTER POWERS WHERE IT REVOKES LICENSE FOR SUNDAY SELLING.—

A conviction for the violation of an ordinance against the sale of intoxicating liquor by a retail liquor dealer on Sunday, which operates as a revocation of the license of the liquor dealer, is void, and the ordinance which confers upon the conviction such an operation is also void, as not being within the chartered powers of the common council to enact.

State vs. Mayor of City of Rahway, N. J., 34 Atl. Rep. 5.

MUNICIPAL CORPORATIONS—AUTHORITY TO SELL LIQUOR—INJUNCTION.—

Neither the "general welfare clause," usually found in the charters of towns or cities, nor the special power "to license and regulate the management of barrooms, saloons," etc., includes the power to run and operate barrooms and saloons, or to otherwise embark the municipal corporation having authority to exercise such powers only, either in the business of selling liquor or in any other commercial enterprise. The exercise of such a power, being inconsistent with the purposes for which municipal corporations are ordinarily organized, must rest upon express legislative authority, and, in the absence of such authority, such a power does not exist.

Mayor, etc., of town of Leesburg vs. Putnam, (Ga.), 29 S. E. Rep. 602.

CHAPTER IX.

SOUTH CAROLINA DISPENSARY ACT.

STATE DISPENSARY—LIQUOR MAY BE SHIPPED TO INDIVIDUALS FOR THEIR OWN USE IN SOUTH CAROLINA.—

On May 9, 1898, the South Carolina liquor law was again made the subject of a decision by the United States Supreme Court, which was handed down by Justice White. The state dispensary law having been amended since the decisions holding it invalid, the decision deals with the new law. This law attempted to discriminate against other states in the shipment of liquor to individuals for their own use in South Carolina, but, while this inhibition was eliminated and the privilege restored in the new law, it was coupled with conditions of inspection which, it was claimed, still amounted to discrimination. The Court in their decision accepted this view of the case, holding that the inspection provision of the law was tantamount to a denial of the right of interstate commerce and, therefore, antagonistic to the constitution of the United States. The Court held, however, that the portion of law regulating the sale of original packages within the state was valid.

Vance & Scott vs. the Vandercook Co. of California.

STATE DISPENSARY—CONSTITUTIONAL LAW—INTERSTATE COMMERCE—INTOXICATING LIQUORS—.

There is no power in a state to forbid the importation of intoxicating liquors, either under the Wilson act of 1890, or independently thereof, and one who merely brings barrels of liquor into a port of South Carolina, and unloads them on the dock, cannot be punished under the state dispensary law.

Ex parte Edgerton, U. S. C. C. (S. Car.), 59 Fed. Rep. 115.

STATE DISPENSARY—LIQUOR IN PRIVATE HOUSE.—

The Supreme Court of South Carolina has rendered a decision which affirms that no man may keep liquor in his

house or place of business for a lawful purpose, such as personal use, unless the vessel in which it is kept has a certificate upon it from the State Liquor Commissioner.

STATE DISPENSARY—INTERSTATE COMMERCE.—

Where one purchases intoxicating liquor for his own use from persons outside the state, and carries it into the state, and does not comply with the regulations of the dispensary law of 1895 after his arrival in the state, such liquor is "contraband," within Dispensary Act, March 6, 1896, § 37, providing that "any person handling contraband liquors in the night time or delivering the same shall be guilty of a misdemeanor."

State vs. Holleyman, S. Car., 31 S. E. Rep. 362.

STATE DISPENSARY—MONOPOLIES.—

The act of July 2, 1890, to protect trade and commerce against unlawful restraints and monopolies, is not applicable to the case of a state which, by its laws, assumes an entire monopoly of the traffic in intoxicating liquors (Act S. C., Jan. 2, 1895). A state is neither a "person" nor a "corporation," within the meaning of the act of Congress.

Lowenstein vs. Evans, U. S. C. C. (S. Car.), 69 Fed. Rep. 908.

STATE DISPENSARY—CANNOT OVERRIDE INTERSTATE COMMERCE.—

The South Carolina dispensary act, approved December 24, 1892, (section 25), providing that intoxicating "liquor intended for unlawful sale in this state may be seized in transit and proceeded against as if it were unlawfully kept and deposited in any place," does not authorize a constable to seize without warrant a package of liquor shipped from without the state, and stored within the state, prior to the statute taking effect, in the warehouse of a railway company, in the charge of a receiver appointed by a United States court, and kept therein without concealment.

Bound vs. South Carolina Ry. Co., U. S. C. C. (S. Car.), 57 Fed. Rep. 485.

STATE DISPENSARY—CONSTITUTIONAL AS POLICE REGULATION.—

A state law prohibiting the sale of liquors by others, though, by authorizing and providing for the establishment of dispensaries for their sale by agents of the state, it recognizes such liquors as the subject of legitimate commerce, is a regulation of their sale, which is a proper exercise of the police powers of the state.

Vance vs. Vandercook, U. S. Sup. Ct., 1898.

DISPENSARY LAW DOES NOT REPEAL OTHER LAWS.—

The South Carolina dispensary laws do not repeal by implication prior laws forbidding the sale of intoxicating liquors in various localities in the state.

Bailey Liquor Co. vs. Austin, 82 Fed. 785.

CHAPTER X.

MALT LIQUORS AND BREWERS.

BREWERS MUST PAY WAREHOUSE TAX IN OHIO.—

The question of brewers paying the Dow liquor tax for warehouses was decided by the Supreme Court of Ohio in the case of the Jung Brewing Company, of Cincinnati, against Geo. A. Talbott, treasurer of Champaign County, as follows:

A manufacturer of intoxicating drinks who carried on the business of selling them elsewhere than at the manufactory, is engaged in the traffic within the purview of section 4364-9, of the revised statutes, and subject to the tax thereby imposed.

It is not essential to a valid imposition of the tax that the traffic be carried on in a building or structure, or fixed

place of business. Selling and delivering the liquors to customers from a vehicle provided for that purpose is a method of carrying on the business that is subject to the tax, unless it is done in connection with and as part of a traffic in which the proprietor is engaged on which he has paid the tax.

When the traffic is so carried on by the sale and delivery from wagons as a separate and independent business, and the liquors are supplied from a storehouse where they are kept on hand for sale in that manner, in charge of a local agent, the storehouse may properly be regarded as the seller's place of business.

Hanson vs. Luce, and Monaghan vs. Luce, 50 Ohio statutes, 440, distinguished. Judgment affirmed.

RBEWER'S LICENSE NOT NEEDED IN ILLINOIS.—

The Illinois Supreme Court has handed down a decision holding unconstitutional and void the ordinance of Chicago which requires a brewer's license from all persons selling malt liquor within the city.

City of Chicago vs. Henry Kiel, agent Herman Berghoff Brewing Company of Fort Wayne, Ind.

BREWERS—LAW DOES NOT PROHIBIT CARRYING ON BUSINESS.—

The Supreme Court of Pennsylvania holds, in the case of the Phœnix Brewing Company vs. Rumbarger, May 17, 1897, that the second section of the Act of April 14, 1863, requiring the branding of barrels and casks in which liquors are sold, and the giving of a certificate to the purchaser, does not prohibit the prosecution of the business when its provisions are not complied with, but only provides a separate penalty for a failure to observe them.

BREWING COMPANY MAY HAVE LICENSE FOR DIFFERENT BREWERIES.—

A brewing company has a right to a license for more than one brewery operated by it.

In re Consumers' Brewing Co.'s Licenses, 7 Pa. Dist. R. 103.

BEER AND ALL MALT LIQUORS INTOXICATING.—

In a prosecution for an illegal sale of beer, it is not necessary for the jury to determine whether the liquor sold was intoxicating, in addition to finding that it was beer, since beer, which is judicially known to be a malt liquor, is an intoxicating liquor, under Horner's Rev. St. 1897, section 5313 (Burns' Rev. St. 1894, Section 7277), providing that the words "intoxicating liquor" shall apply to any malt liquor.

Douglas vs. State, Ind., 52 N. E. Rep. 238.

INDIANA BEER TAX VALID.—

The State Supreme Court of Indiana, in 1894, decided that the ordinance passed by the local council of Indianapolis in 1891, requiring out-of-town breweries to pay a tax of $1,000 for the privilege of doing business in this city, is valid. The decision reverses the decision rendered by the Circuit Court.

BEER PRESUMED TO BE INTOXICATING.—

Beer is presumed to be intoxicating within the meaning of the prohibitory law.

State vs. May, Kan., 34 Pac. Rep. 407.

BEER—JURY WARRANTED IN FINDING THAT BEER IS INTOXICATING.—

Where defendant's barkeeper testifies that he sold intoxicating liquor to a minor, and that it was beer, the jury are warranted in finding that the beer was intoxicating.

Commonwealth vs. Gavin, Mass., 36 N. E. Rep. 484.

"BEER" UNDERSTOOD TO BE THE FERMENTED MALT LIQUOR IN COMMON USE.—

Witnesses testifying to the sale of "beer" at a drinking saloon where intoxicating liquors are sold may be understood as meaning the fermented malt beer in common use as a beverage.

State vs. Dick, Minnesota, 50 N. W. Rep 362.

BEER SUBJECT TO SEIZURE AND FORFEITURE.—

Malt liquor, admitted to be intoxicating, is liable to seizure and forfeiture under the act providing that "any spirituous liquors" kept for sale in violation of law may be seized and forfeited.

State vs. Lager Beer (N. H.), 39 Atl. R. 255.

BEER—SALICYLIC ACID IN BEER PROHIBITED IN OHIO.—

In 1897 the Supreme Court of Ohio decided that it is an offense against the pure food laws of that state to use salicylic acid in beer. The decision of the court is as follows: "A sale of beer as food containing salicylic acid without a label on the package notifying the purchaser that it contains such an ingredient, is, when found to be poisonous or deleterious to health by its continuous or indiscriminate use, an offense against the pure food laws of this state."

BEER—INTOXICATING QUALITY A QUESTION FOR JURY.—

Under a statute which does not specifically name the liquors the sale of which as a beverage it prohibits, but considers and holds all liquors intoxicating which are spirituous, malt, vinous, or fermented, as well as all mixtures thereof which will produce intoxication, the malt or intoxicating quality of beer, when in question, should be shown by the evidence, the weight and sufficiency of which is for the court or jury, as the case may be.

State vs. Sioux Falls Brewing Co., S. Dak., 58 N. W. Rep. 1.

BREWERS—CONTRACTS IN RESTRAINT OF TRADE.—

A contract by which the buyer agrees to keep for sale no beer except that furnished by the seller, and the seller agrees to sell to no other persons at a certain town, is within Sayles' Ann. Civ. St. 1897, art. 5313, avoiding contracts to restrain trade, or prevent competition in the sale of commodities.

Texas Brewing Co. vs. Durrum, Tex., 40 S. W. Rep. 880.

CHAPTER XI.

DRUGGISTS.

DRUGGISTS—PATENT MEDICINE OR DISTILLED SPIRITS.—

The term "domestic distilled spirits," as used in the law requiring retail liquor dealers to pay a special tax to the United States before engaging in the business, does not include patent or proprietary medicines, manufactured and sold, in good faith, for curative or health-imparting properties, although they may contain a large percentage of distilled spirits as one of their essential ingredients; nor does the fact that men with strong appetites for drink occasionally buy such preparations and by the use of them become drunk, furnish any adequate reason for classifying them as distilled spirits. The law, however, is not to be evaded by mere deceptive names, and if alcoholic beverages in which the essential ingredient is distilled spirits, disguised by aromatic or other drugs, are commonly bought and sold as and for intoxicating beverages, the same are not to be classed as patent or proprietary medicines, by whatever names they may be known, and the seller thereof is liable to the tax as a retail liquor dealer.

United States vs. Wilson, U. S. Dist. Court for Missouri.

DRUGGISTS—SALE OF MALT TONICS.—

Druggists are subject to the regulations of retail liquor dealers if a compound is intoxicating and is sold as a beverage, notwithstanding the fact that the compound may be used as a medicine and was so intended by the manufacturer.

Internal Revenue Circular No. 340. 1895.

SAMPLE BOTTLES DO NOT REQUIRE STAMPS.—

A medicinal proprietary article or preparation which is not made for sale nor sold, or removed from the place of manufacture for sale, is not subject to the stamp tax. Hence

a mere sample box of a proprietary medicine or preparation, put up and labeled, "For free distribution," which is actually given away by the owner or proprietor, does not require a war revenue stamp.

Opinion of U. S. Attorney General.

DRUGGISTS—COLORADO—SALE FOR MEDICAL PURPOSES.—

A provision that an ordinance forbidding the sale of liquor without a license shall not apply to sales by druggists "upon the prescription of a reputable physician and for medicinal purposes" authorizes sales by druggists for medical purposes without a prescription.

Prowitt vs. City of Denver, Colo., 52 Pac. Rep.

DRUGGISTS—CONNECTICUT—DISCRETION AS TO LICENSING CONSTITUTIONAL.—

The fact that discretion is, by section 3067, given to County Commissioners in granting to pharmacists licenses for using intoxicating liquors in compounding prescriptions, does not render it unconstitutional, as depriving persons of property without due process of law.

State vs. Gray, Connecticut, 23 Atl. Rep. 718.

DRUGGISTS—INDIANA—DRUG CLERK CAN ONLY SELL ON PROPER PRESCRIPTION.—

The Appellate Court of Indiana held in the case of Albert H. Caldwell against the state, that a drug clerk is not justified in filling, on Sunday, a written prescription signed by a physician, which reads (as translated into English): "R. Whisky; one quart, for medicinal use." Caldwell, who keeps a drug store in Martinsville, was arrested for selling intoxicating liquor on Sunday, and attempted to justify on the ground that he had only filled the prescription of a practicing physician, which he offered to prove was in the ordinary form used by the medical profession, and was worded according to the regulations of the United States dispensatory. The Court held that the presentation

of such a prescription, which does not request that the sale shall be made or the manner in which the liquor shall be used, is no authority for selling whisky on Sunday. A druggist can only sell intoxicating liquor on Sunday when it is actually sold for medicinal purposes, and the druggist has the burden of proving this.

Caldwell vs. State (Ind.), 46 N. E. 697.

DRUGGISTS—IOWA—WHO IS ALSO PHYSICIAN NO RIGHT TO SELL ALCOHOL FOR ANY PURPOSE.—

Where a druggist, who was a physician, sold alcohol, to be used in preparing a liniment, and the defense set up that the liquor was not sold as a beverage, but for medical purposes, the Supreme Court held he had no right to sell for any purpose, and he was liable.

Decision of Sup. Ct., Iowa, June, 1891.

DRUGGISTS—IOWA—PHARMACIST'S PERMIT.—

Under Acts 25th Gen. Assem., Iowa, ch. 62, § 1, which provides for the assessing of a tax for selling liquor against persons "other than registered pharmacists holding permits," such a pharmacist is not liable for the tax, although selling liquor in violation of his permit.

Shonkwiler vs. Stewart, Ia., 73 N. W. Rep. 479.

DRUGGISTS—KANSAS—FORM OF INFORMATION.—

An information charging that at a certain time and place the defendant, "being then and there a person not lawfully and in good faith engaged in the business of a druggist, did then and there unlawfully sell and barter spirituous, malt, vinous, fermented and other intoxicating liquors," being within the language of paragraph 2527, Gen. St. 1889, is sufficient; but in such a case it is the duty of the prosecution to show that the defendant, although having a permit, "is not a person lawfully and in good faith engaged in the business of a druggist."

State vs. Tanner, Kan., 31 Pac. Rep. 1096.

DRUGGISTS—KENTUCKY—APPLICATION FOR LICENSE.—

A general law does not repeal a local law unless it conflicts therewith or unless the intention to repeal is manifest. A special act of the legislature prohibiting the sale of spirituous, vinous and malt liquors in the town of Columbia, except by a druggist for medical purposes upon prescription of a regular resident practicing physician, has not been repealed by the provisions of the Kentucky statutes as to the sale of liquor, the only effect of the general law upon the sale of liquor in the town of Columbia being to require of druggists a license fee of $50.

The general law allowing a majority of the legal voters of the neighborhood to defeat by a protest the granting of license to sell spirituous liquors does not apply to appellants' application for license to sell liquor in the town of Columbia as a druggist upon the prescription of a regular practicing physician.

Court of Appeals, Ky., 1895.

DRUGGISTS—MICHIGAN—NOT NECESSARY TO SHOW DRUGGIST WAS NOT LICENSED SALOONKEEPER.—

An information reciting that defendant, being a druggist, did sell a quantity of spirituous liquor, called "brandy," to one S., to be used as a beverage, and which was drank on the premises by S. and others, is sufficient under 3 How. St. § 2283c6, providing that it shall be unlawful for any druggist to sell spirituous liquor to any person to be used as a beverage and to be drank on the premises, though the information failed to show negatively that defendant was not licensed to keep a saloon under other sections of the statute.

People vs. Curtis (Mich.), 54 N. W. Rep. 767.

DRUGGISTS—MICHIGAN—ONE ILLEGAL SALE INSUFFICIENT FOR CONVICTION OF KEEPING PLACE FOR ILLEGAL SALE.—

A druggist who has complied with the statutory provision to entitle him to sell liquor for medicinal purposes cannot, on proof of one illegal sale of liquor as a beverage,

be convicted of keeping a place for the illegal sale of liquors. The prosecution should be for the unlawful sale.

Maynard vs. Eaton Circuit Judge (Mich.), 65 N. W. Rep. 760.

DRUGGISTS—MICHIGAN—ILLEGAL SALES.—

Where the complaint alleged that defendant, not being a druggist, sold liquor at retail without having paid the tax, posted up the notice, or given the bond required, and the testimony showed that defendant was a druggist, and failed to show that he had not filed a bond as such, a conviction should be set aside.

People vs. Beach (Mich.), 52 N. W. Rep. 1035.

DRUGGISTS—MINNESOTA—SELLING LIQUOR WITHOUT LICENSE—INDICTMENT.—

It is not necessary in an indictment under sections 1993 and 2029, General Statutes, 1894, for selling intoxicating liquors without a license, to negative the proviso in section 2029 to the effect that the provisions of the section shall not be construed so as to prohibit druggists from dispensing liquors in filling physicians' prescriptions. Order affirmed.

State of Minnesota vs. John Corcoran et al.

DRUGGISTS—MISSISSIPPI—NOT LIABLE IF TINCTURE OF GINGER IS USED AS INTOXICANT.—

A druggist, in good faith, selling tinctnre of ginger as a medicine, cannot be convicted of selling intoxicating liquors because the buyer diluted the drug with water and drank it as an intoxicant.

Bertrand vs. State (Miss.), 18 South. Rep. 545.

DRUGGISTS—MISSOURI—CONSTITUTIONALITY OF LAW REQUIRING PRODUCTION OF PRESCRIPTION IN COURT.—

Rev. St. 1889, §§ 4621, 4622, prohibiting a druggist from selling liquor except on the prescription of a physician, and declaring that such prescription shall be carefully preserved, and produced in court, or before any grand jury, whenever required, and that, on the failure of the druggist

to produce the same, he shall be deemed guilty of a misdemeanor, are not in conflict with Const., art. 2, § 23, providing that no person shall be required to furnish evidence in a criminal case against himself.

State vs. Davis, Missouri.

DRUGGISTS—MISSOURI—INFORMATION FAILING TO SET OUT NAME OF VENDEE—FATALLY DEFECTIVE.—

Under Rev. St. § 4621, providing that any druggist who sells intoxicating liquors without a prescription, signed by a physician, setting forth the name of the person for whom the same is prescribed, is guilty of a misdemeanor, an information against a druggist for a violation of such statute, which fails to set out the name of the vendee of the liquor, is fatally defective.

State vs. Martin, Missouri.

DRUGGISTS—TEXAS—NOT REQUIRED TO OBTAIN LICENSE TO SELL ON PRESCRIPTION IN LOCAL OPTION DISTRICT.—

The proviso in Acts 1893, p. 177, levying a tax upon the occupation of retail liquor dealers, that the act shall not exempt druggists selling the intoxicants mentioned on prescription of a physician from the tax therein imposed, does not authorize or require druggists in local option districts to obtain a license to sell such intoxicants on prescription.

Gibson vs. State (Tex.), 29 S. W. Rep. 1085.

DRUGGISTS—WEST VIRGINIA—SALE PRESUMED TO BE ILLEGAL, UNLESS ON WRITTEN PRESCRIPTION.—

In any prosecution, against a druggist for selling alcohol, spirituous liquors, or wine, if the sale be proven, it shall be presumed that the sale was unlawful, in the absence of satisfactory proof to the contrary; but this presumption may be rebutted by the production of the written prescription of a practicing physician in good standing in his profession, and not of intemperate habits, complying with the requirements of section 6 of chapter 32 of the Code.

State vs. Bluefield Drug Co. (W. Va.), 27 S. E. Rep. 350.

CHAPTER XII.

CIVIL DAMAGES.

CIVIL DAMAGES—LIABILITY FOR MONEY STOLEN.—

A saloonkeeper is not liable for money taken from one while intoxicated on liquor sold to him in his saloon, under Sand. & H. Dig. § 4870, requiring him to give a bond conditioned to pay "all damages that may be occasioned by reason of liquor sold" at the saloon; the liquor not being the proximate cause of such loss.

Gage vs. Harvey (Ark.), 48 S. W. Rep. 898.

CIVIL DAMAGES—MEASURE OF DAMAGES.—

A wife may be injured in her means of support where her husband's ability to furnish her with the comforts of life is lessened or destroyed, although she may not be deprived of the bare necessaries of life.

Maloney vs. Dailey (Ill.), 67 Ill. App. 427.

CIVIL DAMAGES—WHO ARE LIABLE.—

When damages for injuries caused by the sale of intoxicating liquors are sought to be recovered under the dramshop act, all those who have furnished liquors which contributed to create, or to strengthen, or to keep up the habit of drunkenness are liable, both severally and jointly.

Keller vs. Lincoln (Ill.), 67 Ill. App. 404.

CIVIL DAMAGES—PROPER TO EXCLUDE EVIDENCE THAT DEFENDANT REFUSED TO SELL TO HUSBAND WHEN DRUNK.—

In an action for damages, for the sale of liquor to plaintiff's husband, where it is admitted that defendant, contrary to plaintiff's repeated request and warnings, sold to plaintiff's husband the liquor which made him drunk, and rendered him unable to work, it is proper to exclude evidence that defendant refused to sell him liquor when actually drunk.

Wolfe vs. Johnson (Ill.), 38 N. E. Rep. 886.

CIVIL DAMAGES—INSTRUCTION TO JURY.—

It is proper to instruct the jury to the effect that in estimating plaintiff's damages they may consider not only the earnings of decedent for any given period, but also the probable length of his life till terminated by natural causes.

Betting vs. Hobbett, Illinois.

CIVIL DAMAGES—CHILDREN AND WIFE MAY SUE JOINTLY OR SEPARATELY.—

Where the effect of selling liquor to a man is to deprive of support his wife and infant children, who reside together and depend on him for support, they may jointly sue the liquor seller; though each has a separate right of action.

Helmeth vs. Bell (Ill.), 37 N. E. Rep. 230.

CIVIL DAMAGES—MAY SHOW PROXIMATE CAUSE OF DEATH.—

A complaint alleging that defendant unlawfully sold intoxicating liquors to plaintiff's minor child, and suffered him to drink the same until he became intoxicated, crazed, and helpless, and that while in this intoxicated condition he wandered into the river and was drowned, shows that the sale was the proximate cause of the death.

Boos vs. State (Ind.), 39 N. E. Rep. 197.

CIVIL DAMAGES—SALOONKEEPER IN INDIANA IS RESPONSIBLE FOR SELLING LIQUOR TO YOUTH.—

A saloonkeeper in Indiana is held to be responsible for selling liquor to a youth, who is killed while under its influence, although liquor was sold by bartender. The Court held further that it is not necessary that the father in pleading loss of support by death of son should be reduced to pecuniary straits.

App. Ct., Indiana, decision, 1896.

CIVIL DAMAGES—FATHER MAY RECOVER FOR DEATH OF MINOR SON.—

The Indiana Supreme Court has handed down a decision establishing a precedent in the state. Joseph Sliney, of Huntington, obtained a verdict against Louis Gauss, a

Huntington saloonkeeper, for $670 for selling liquor to Mr. Sliney's minor son, who went from the saloon and was drowned in the river. The Supreme Court affirmed the lower court on the ground that the person who sets into action any force must be responsible for the ultimate consequences of that force.

CIVIL DAMAGES—LIABILITY FOR PROXIMATE CAUSE OF DEATH.—

In an action on a bond given by a liquor dealer under Rev. St. 1881, §5315, conditioned for the payment of all judgments for civil damages growing out of unlawful sales, a complaint which alleges that by reason of liquor sold by the dealer to a person while intoxicated he became extremely drunk, and unable to manage his horses, and while driving home, he, by reason of the intoxication so produced, ran his team at a reckless speed into a rut in a highway, thereby throwing himself to the ground, and was run over and killed, shows that the intoxication produced by the liquor sold him by the liquor dealer was the proximate cause of his death.

Wall vs. State (Ind.), 38 N. E. Rep. 100.

CIVIL DAMAGES—SALOONKEEPER RESPONSIBLE FOR DAMAGE TO PROPERTY VALUES.—

The Supreme Court of Indiana in 1894 decided that if a saloon causes property to depreciate in value it is a nuisance within the law and can be abated, and the person who operates the saloon is liable in damages to the injured party.

Haggart vs. Stehlin, Indiana.

CIVIL DAMAGES—WIFE MAY RECOVER THOUGH SALE WAS MADE TO STRANGER.—

In an action by a wife for damages for the sale of intoxicating liquors to her husband, the fact that the liquor drank by the husband was bought by other persons does not preclude a recovery.

Carrier vs. Bernstein, 73 N. W. Rep. 1076.

CIVIL DAMAGES—ADMINISTRATOR CANNOT SUE FOR.—

The District Court at Des Moines, Iowa, in October, 1898, decided that:

An administrator cannot bring action for damages against a saloonkeeper for the death of a man from the effects of liquor drinking.

CIVIL DAMAGES—NOTICE FORBIDDING SALE TO HUSBAND BY WIFE, SIGNED FOR HER BY ANOTHER PERSON AT HER REQUEST, IS SUFFICIENT.—

In an action under Pub. St., ch. 100, § 25, forbidding the sale of liquor to a husband after "notice" by the wife "in writing, signed by her," where the notice given bore the wife's name, but signed by another person at her request and in her presence, she knowing the contents and objects of such notice, it was sufficient.

Finnegan vs. Lucy (Mass.), 32 N. E. Rep. 656.

CIVIL DAMAGES—EVIDENCE OF CONVICTION FOR DRUNKENNESS ADMISSIBLE TO SHOW DAMAGES.—

In an action by a wife for damages for sale of liquor to her husband, evidence of his conviction for drunkenness caused by the liquor is admissible, not to prove the drunkenness, but to show damages.

Lucker vs. Liske (Mich.), 70 N. W. Rep. 421.

CIVIL DAMAGES—PRINCIPAL AND SURETIES ON DIFFERENT BONDS MAY BE JOINED IN A SINGLE ACTION.—

Under 3 How. Ann. St., § 2283e3, making "any person or persons," and, if licensed liquor dealers, the sureties on their bonds, who have furnished liquors to a person, liable, "jointly and severally," for injuries suffered by others by such person's intoxication by said liquors, the principals and sureties on different bonds may be joined in a single action.

Franklin vs. Frey (Mich.), 68 N. W. Rep. 970.

CIVIL DAMAGES—LIABLE FOR DAMAGE SUSTAINED BY WIFE, EVEN THOUGH HUSBAND WAS HABITUAL DRUNKARD BEFORE SUCH SALES BEGUN.—

In an action against a saloonkeeper for selling liquor to plaintiff's husband, thereby injuring her means of sup-

port, and her feelings, defendant will be liable for whatever damages plaintiff has sustained from his acts, though the husband was an habitual drunkard before such sales began.

Ford vs. Cheveer (Mich.), 63 N. W. Rep, 970.

CIVIL DAMAGES—MOTHER ENTITLED TO RECOVER FOR DEATH OF ADULT SON, WHO CONTRIBUTED TO HER SUPPORT.—

Acts 1887, No. 313, § 20, provides that every "parent who shall be injured in person or property or means of support, by reason of the intoxication of any person, shall have a right of action" against the person who shall, by furnishing intoxicating liquor, have caused or contributed to such intoxication: Held, that plaintiff was entitled to recover for the death of her adult son caused by intoxication resulting from liquor furnished him by defendant, where the son actually contributed to plaintiff's support, though there was no legal obligation on him to do so.

Eddy vs. Courtright (Mich.), 51 N. W. Rep. 887.

CIVIL DAMAGES—WIFE MAY RECOVER FOR INJURY TO HER FEELINGS.—

Where a wife is injured in person, or property, or means of support or "otherwise" by reason of the sale of intoxicating liquors to her husband (3 How. St., §2283e3), she may recover for injuries to her feelings.

Radley vs. Seider (Mich.), 58 N. W. Rep. 366.

CIVIL DAMAGES—ALL CONTRIBUTING TO INTOXICATION LIABLE.—

Under act of 1887, making the saloonkeeper liable for all damages which result to the wife by reason of the husband's intoxication, anyone causing or contributing to the intoxication is liable.

Wood vs. Lentz (Mich.), 74 N. W. Rep. 462.

CIVIL DAMAGES—JOINT LIABILITY OF ALL VENDORS.—

Under 3 How. St., § 2283e3, making all who contribute by sales of liquor to an intoxication jointly and severally lia-

ble for injuries resulting therefrom, different liquor sellers who on the same day sell to the same person intoxicants, which cause separate and distinct intoxications, resulting in injuries to others, are not joint tort-feasors, and hence a discharge of one does not release all.

Jewell vs. Welch (Mich.), 75 N. W. Rep. 283.

CIVIL DAMAGES—SALOONKEEPER'S OWN DRINKING NOT TRAFFICKING SO AS TO MAKE SURETIES LIABLE.—

S., a saloonkeeper, while intoxicated in his own saloon, shot and killed the plaintiff's husband. Held, that the drinking of the liquor by S. was not a traffic in intoxicating liquor, within the meaning of the law, or such as will render his sureties liable in an action upon his bond.

Curten vs. Atkinson (Neb.), 54 N. W. Rep. 131.

CIVIL DAMAGES—KNOWLEDGE AND CONSENT OF PLAINTIFF TO THE FURNISHING OF LIQUOR TO HUSBAND, DOES NOT DEFEAT ACTION.—

An action by a widow for damage suffered in consequence of the furnishing to her deceased husband of intoxicating liquors cannot be defeated by proof that such liquors were furnished by the defendant, a licensed saloonkeeper, with the knowledge and consent of the plaintiff.

Kliment vs. Corcoran (Neb.), 70 N. W. Rep. 916.

CIVIL DAMAGES—ADMISSION OF EVIDENCE AS TO SUPPORT OF MINOR CHILDREN.—

Under the "civil damage act," the fact that minor children are able to support themselves, and had done so prior to the death of the father, is a proper fact for the jury to consider in ascertaining the amount of damages to be allowed; but it is error to instruct the jury that to the extent that a child had in the past supported himself, the law precludes any recovery; the duty to support, and the probability of future support, as well as the fact of past support, being elements for consideration.

Huston vs. Gran (Neb.), 57 N. W. Rep. 403.

CIVIL DAMAGES—ESSENTIAL FACTS TO BE SHOWN.—

In an action on the bond of a saloonkeeper, the fact essential to be shown is the disqualification to support those thereto entitled, caused or contributed to by sales of intoxicating liquors to one upon whom legally devolves the duty of furnishing such support; and this disqualification may be either partial in effect or limited in duration, by reason of physical disability, or it may become complete as by death.

Chmelir vs. Sawyer (Neb.), 60 N. W. Rep. 547.

CIVIL DAMAGES—SURETIES ON BOND LIABLE.—

A licensed dealer in intoxicating liquors and the sureties upon his bond are liable for the loss of support sustained by the widow and children of one whose death was contributed to by intoxicating liquors drunk by him, and which were furnished him by the dealer.

Schiek vs. Sanders (Neb.), 74 N. W. 39.

CIVIL DAMAGES—LOSS OF SUPPORT.—

In an action for damages by a married woman against a saloonkeeper for loss of means of support resulting from the sale of liquors to her husband, it is error to instruct the jury that habits of the husband, prior to the acts complained of, are immaterial. Although the fact that he drank to excess will not defeat a recovery, yet such fact may properly be considered by the jury as affecting the measure of damages.

Uldrich vs. Gilmore (Neb.), 53 N. W. Rep. 135.

CIVIL DAMAGES—LIABLE IF LIQUOR MERELY CONTRIBUTES TO DAMAGES.—

Under the statutes relating to damages caused by furnishing intoxicating liquors it is not necessary that the liquor furnished, or any resultant intoxication, should be the sole, or even the principal cause of damage. It is sufficient if it contributes to produce the injuries.

McClellan vs. Hein (Neb), 77 N. W. Rep. 120.

CIVIL DAMAGES—NOT LIABLE FOR DAMAGE TO ANOTHER BY DRUNKEN MAN WHO DID NOT BUY OF HIM.—

Under Laws 1873, ch. 646, making a seller of liquor liable for injuries to others caused by the intoxication of the person to whom the liquor was sold, a liquor seller is not liable where a person was injured by the reckless driving of a drunken man, who did not himself purchase the liquor by which he was intoxicated, but which was purchased by a friend, it not being shown that the drunken person was a participant in such purchase.

Dudley vs. Parker New York.

CIVIL DAMAGES—NOT NECESSARY TO PROVE KNOWLEDGE OR CONSENT OF LESSOR TO SALE.—

It is not essential to the right of the plaintiff, in an action under section 1364 of the Revised Statutes to subject the premises where intoxicating liquors were unlawfully sold to the payment of the damages caused by such sales, either that the premises should have been leased for the purpose of selling liquor thereon in violation of law, or that the owner or lessor had knowledge that such liquors were to be sold thereon, or knowingly permitted the sales which caused the damages. Such action may be maintained, if the premises were leased to be used for the sale of intoxicating liquor, or were permitted by the lessor to be so used.

Mullen vs. Peck (Ohio), 31 N. E. Rep. 1077.

CIVIL DAMAGES—IF SON HAS NO FAMILY RELATION WITH FATHER, LATTER CANNOT RECOVER FOR INJURIES TO SON.—

A father, between whom and his adult son neither a subsisting family relation, nor that of master and servant was shown to exist, is not a person "aggrieved" by injuries to the son resulting from the sale of liquor to him while intoxicated, within the meaning of Act Pa., May 8, 1854, which renders the vendor of intoxicating liquors to one already drunk, civilly liable to "any one aggrieved" in jerson or property in consequence thereof; and the father cannot

recover money voluntarily expended by him for medical services, nursing, etc., in consequence of such injuries to the son.

Veon vs. Creaton, Sup. Ct., Pennsylvania.

CIVIL DAMAGES—LIABILITY OF SALOONKEEPERS FOR EFFECTS OF LIQUOR SOLD.—

Where a saloonkeeper sold whisky to a man who was already intoxicated, from the effects of which he fell in a gutter, contracted pneumonia, and died; Held, his widow entitled to recover under statute in Pennsylvania. Under such circumstances saloonkeeper does not escape liability imposed by alleging that the liquor was the proximate cause of death and that plaintiff drank it voluntarily.

Pennsylvania Sup. Ct., 1892.

CIVIL DAMAGES—SELLING LIQUOR TO HABITUAL DRUNKARD.—

A Tennessee saloonkeeper was fined $2,500 for supplying liquor after written notice from the wife, and from which liquor the husband died.

The Court held on appeal:

(1) Even though the notice to cease selling to the deceased omitted to state that he was an habitual drunkard, it was sufficient, as the fact of habitual drunkenness could be established otherwise.

(2) Even though the notice was not served by an officer, this provision is directive and not mandatory, and is for the purpose of preserving the evidence in order that an indictment may be found.

CIVIL DAMAGES—LIQUOR DEALER'S LIABILITY IN TEXAS—STATUTORY NOTICE TO BE GIVEN.—

The written statutory notice was given to the dealer by the wife prior to the execution of the bond, the breach of which, namely, sale to the husband, occurred during the life of the bond. Held, principal and sureties liable.

Hahn vs. Blair Bros., Ct. of App., Texas, 1899.

CIVIL DAMAGES—MINOR—ACTION SHOULD BE BROUGHT BY FATHER, NOT BY MOTHER.—

An action on a liquor dealer's bond for the "liquidated damages" allowed by the statute for the sale of liquor to a minor cannot be maintained by a married woman, joined *pro forma* by her husband, as the cause of action should be brought by the husband.

Wartelsky vs. McGee (Tex.), 30 S. W. Rep. 69.

CIVIL DAMAGES—MOTHER MAY BRING ACTION.—

Under sec. 20, ch. 32, Code of West Virginia, a married woman, injured by reason of unlawful sales of intoxicating liquors to a son, may maintain a suit for damages, notwithstanding her husband, father of such son, may be living.

CHAPTER XIII.

ILLEGAL SALE.

ILLEGAL SALE—CONVICTION IRRESPECTIVE OF BELIEF OR MOTIVE.—

Under Acts 1880-81, p. 170, § 1, which declares it unlawful to manufacture or sell "any intoxicating decoction, mixture, compound, or bitters whatever, in any quantity or for any use or purpose, within the limits of the counties of Clark and Limestone," a person who sold as medicines, in quantities less than a quart, a "strengthening cordial" and a "ginger tonic" which contained sufficient alcohol to and did intoxicate persons using them, was rightly convicted, irrespective of his belief, motive or intention.

Compton vs. State (Ala.), 11 South. Rep. 69.

ILLEGAL SALE—REFERS TO SALE OR GIFT.—

Under a statute prohibiting "the selling, giving or otherwise disposing of" intoxicating liquors without a li-

cense, the words "or otherwise disposing of" refer to a disposition of the same class as a sale or gift.

Roberson vs. State (Ala.), 14 South. Rep. 554.

ILLEGAL SALE—WHETHER THE LOAN OF BOTTLE OF WHISKY WAS A SUBTERFUGE OR BONA FIDE, A QUESTION FOR JURY.—

On a trial for an unlawful sale of liquor, the evidence showed that defendant loaned a bottle of whisky to one who promised to return it in kind: Held that, if the exchange was made in good faith, it would not be a "sale," and defendant should be acquitted, but if it was a subterfuge, to avoid the statute, it would be a sale, for which defendant should be convicted, and that the jury should have been so charged.

Robinson vs. State (Ark.), 27 S. W. Rep. 233.

ILLEGAL SALE—TO FEMALES—INSUFFICIENT EVIDENCE TO PROVE SALE IN ROOM NOT USED AS WINE ROOM.—

Under Laws 1891, p. 315, forbidding the sale of liquor to females in any wine room kept in connection with a saloon, evidence of such sale in a room used as a dining room or restaurant, for lodgers in the upper part of the saloon building, to female servants in charge of such rooms, is not sufficient to sustain a conviction.

Walker vs. People (Colo.), 37 Pac. Rep. 29.

ILLEGAL SALE—A PERSON WHO RECEIVES MONEY AND DELIVERS WHISKY MAY BE REGARDED AS SELLER.—

In a prohibition county a person who receives money from another with a request to procure whisky, and who shortly afterward delivers the whisky, may be treated as the seller, if no other person filling that character appears, and if it is not shown where, how or from whom the whisky was obtained.

Grant vs. State Sup. Ct., Georgia.

ILLEGAL SALE—BUYING FOR ANOTHER.—

If the accused, acting *bona fide* as the agent of another, bought liquor for the latter with the latter's money, and delivered it to the person for whom it was bought, these facts

did not constitute a sale of liquor by the accused, whether the person from which he bought was legally authorized to sell or not; but if, in a *prima facie* case of guilt, he made a statement to the jury, and therein gave an explanation of the transaction which was a mere subterfuge to cover up an unlawful sale of liquor by himself, the jury would be authorized to find him guilty.

White vs. State (Ga.), 19 S. E. Rep. 49.

ILLEGAL SALE—IN COUNTRY.—

Rev. St. 1893, ch. 43, § 16, making it a criminal offense to sell intoxicating liquors outside of cities, towns, and villages "in any less quantity than five gallons, and in the original package as put up by the manufacturer," prohibits sales of less than five gallons, except when contained in an original package.

Tipton vs. People (Ill.), 40 N. E. Rep. 838.

ILLEGAL SALE—OFFENSE IS IN THE SELLING, NOT IN FURNISHING MONEY TO PURCHASE.—

Money was furnished by a city to a person, to enable him to buy beer to detect violations of an ordinance. A person willingly sold him beer. Held, that the offense was in the selling, and the accused could not complain of the city's acts.

City of Evanston vs. Meyers (Ill.), N. E. Rep. 204.

ILLEGAL SALE—LIQUOR FOUND ON PREMISES PRESUMPTIVE PROOF.—

On trial there was no proof of actual sales of liquor, but there was evidence that defendant's customers drank beer which he delivered to them, and that beer and whisky were found in his premises: Held that, as he was not authorized to sell such liquor, the finding of it in his place of business was presumptive evidence that it was kept there for sale, in violation of law; and that presumption was not overcome by evasive testimony of ownership.

State vs. Farley (Iowa), 53 N. W. Rep. 1089.

ILLEGAL SALE—IGNORANCE OF INTOXICATING QUALITY NO DEFENSE.—

It is no defense to a prosecution for selling intoxicating liquors that defendant did not know that they were intoxicating.

State vs. Lindeon (Iowa), 54 N. W. Rep. 1075.

ILLEGAL SALE—PURCHASER NOT PARTICIPANT WITH SELLER.—

The purchaser of intoxicating liquor, which is sold in violation of law, is not a participant with the seller, and therefore is not guilty as the principal offender.

State vs. Cullins (Kan.), 36 Pac Rep. 56.

ILLEGAL SALE—"KEEPING" LIQUOR ON PERSON INTENDING TO SELL UNLAWFULLY.—

A person who has in his pocket, on his person, intoxicating liquor, which he intends to sell in violation of law, is guilty of "keeping" intoxicating liquor with intent to sell the same unlawfully.

Commonwealth vs. Ryan (Mass.), 35 N. E. Rep. 673.

ILLEGAL SALE—TENEMENT.—

A building occupied as a dwelling, whether attached to the land or not, is a "tenement," within the meaning of the statute prohibiting the keeping and maintenance of a tenement for the illegal keeping and sale of intoxicating liquor.

Commonwealth vs. Mullen (Mass.), 44 N. E. Rep. 343.

ILLEGAL SALE—EVIDENCE OF.—

On trial of defendant for maintaining a building used for the unlawful sale and keeping of liquor, there was evidence that the defendant owned a neighboring house, from which he was accustomed to carry beer to the building occupied by him, and alleged to be a nuisance, and that this carrying of beer was generally coincident with the entrance of men into the latter building: Held, that evidence of the discovery of beer and whisky, seemingly defendant's, in the cellar of the neighboring house, was admissible.

Commonwealth vs. Lyons (Mass.), 35 N. E. Rep. 316.

ILLEGAL SALE—EFFECT OF STATUTE IN EXTENDING BOUNDARY OF COUNTIES.—

Pub. St., ch. 213, §19, which provides that "an offense committed on the boundary line of two counties, or within one hundred rods of such line, may be alleged to have been committed, and may be prosecuted and punished, in either county," in a case where defendant is indicted for the local offense of keeping a liquor nuisance, has the effect of extending, not only the county line, but also the town line, for the purpose of allegation, prosecution, and punishment, into the county and town adjoining.

Commonwealth vs. Matthews (Mass.), 45 N. E. Rep. 92.

ILLEGAL SALE—ADMISSIBLE EVIDENCE.—

On trial for bringing liquor into a town for sale therein contrary to law, evidence that the liquor was brought to a place in such town which was used for the unlawful sale of liquor, is admissible to show that defendant had reasonable cause to believe that the liquor was intended to be sold there contrary to law.

Commonwealth vs. Locke (Mass.), 39 N. E. Rep. 102.

ILLEGAL SALE—EVIDENCE.—

Upon the trial for maintaining a liquor nuisance, it was shown that intoxicated persons had been seen on defendant's premises; that whisky was discovered in an adjoining building, the key of which was found in defendant's house. Evidence was offered by the state to show that defendant's daughter was seen going to the adjoining house, and returned with something hidden under her dress; that an officer seized this object from the outside, and found it in size and shape like a quart bottle; that he asked to see it, and that defendant would not permit him: Held, admissible notwithstanding the way in which the officer got his knowledge of the object concealed.

Commonwealth vs. Welch (Mass.), 40 N. E. Rep. 104.

ILLEGAL SALE—WHERE ORDERED FOR ANOTHER.—

The defendant, charged with selling whisky to F in quantities less than a gallon without a license, is not guilty

where F got the defendant to order the whisky for him from a dealer, and he delivered it to F under the order.

Waddle vs. State (Miss.), 24 So. Rep. 311.

ILLEGAL SALE—THROUGH INTERMEDIARY.—

One who, at the request of a proprietor of a bar, though not connected therewith, goes thereto, and procures liquor for a customer, handing the proceeds to the proprietor, is guilty of selling intoxicating liquors to the same extent as to the proprietor of the bar.

Beck vs. State (Miss.), 13 South. Rep. 835.

ILLEGAL SALE—EVIDENCE—ERROR.—

On a trial for selling liquor in violation of a town ordinance, it is error to admit evidence of two distinct sales.

Naul vs. State (Miss.), 12 South. Rep. 903.

ILLEGAL SALE—WOMEN.—

Under Cr. Laws, § 261 (Comp. St., p. 578), making it unlawful to sell liquor in any place where women are employed or allowed to assemble for the purpose of the business therein carried on, an indictment charging the sale of liquor in a place where women are both employed and allowed to assemble is not bad for duplicity.

State vs. Marion (Mont.), 36 Pac. Rep. 1044.

ILLEGAL SALE—CONSTITUTIONAL LAW—NORTH DAKOTA.—

Chapter 110 of the Laws of 1890, entitled "An act to prescribe the penalties for the unlawful manufacture, sale, and keeping for sale, of intoxicating liquors, and to regulate the sale, barter, and giving away of such liquors for medicinal, scientific and mechanical purposes," is not in conflict with section 61 of article 2 of the state constitution, which provides that "no bill shall embrace more than one subject, which shall be expressed in its title, but a bill which violates this provision shall be invalidated thereby only as to so much thereof as shall not be so expressed."

State vs. Haas, North Dakota.

ILLEGAL SALE—CONFLICT OF TESTIMONY.—

On conflicting testimony as to defendant's illegal sale, the reputation for truth and veracity of the state's witness being attacked, and defendant having testified that he did not make the sale, verdict of guilty cannot be disturbed.

Williamson vs. State, 44 S. W. Rep. (Tex.), 1088.

ILLEGAL SALE—LAW PROVIDING THAT PAYMENT OF U. S. SPECIAL TAX IS PRIMA FACIE EVIDENCE OF LIQUOR SELLING IS CONSTITUTIONAL.—

Act May 6, 1893, § 7, regulating the sale of intoxicating liquors, providing that the payment of the United States special license tax shall be held to be prima facie evidence that the persons paying such tax are engaged in selling liqours, is not in conflict with Const., art. 1, § 15, giving the right of trial by jury.

Flocck vs. State (Tex.), 30 S. W. Rep. 794.

ILLEGAL SALE—BARN NOT "OWN PRIVATE DWELLING."—

A man's barn and granary are not a part of his dwelling house within Acts 1882, No. 41, which provides that no person shall give away intoxicating liquor unless he performs the act in his "own private dwelling."

State vs. Camp (Vt.), 24 Atl. Rep. 1114.

CHAPTER XIV.

SALE TO MINOR.

MINOR—BURDEN OF PROOF ON DEFENDANT TO SHOW CONSENT OF PARENT.—

In a prosecution for selling liquor to a minor, the burden is on defendant to show the consent of the parent or person having control of the minor, rather than on the prosecution to show the want of such consent.

Frieberg vs. State (Ala.), 10 South. Rep. 703.

MINOR—SELLING WITHOUT LICENSE—PURCHASE FOR MINOR.

When a party with the money of a minor purchases liquor for him he is not only an agent of the minor, which is not punishable, but he is also an aider and procurer of the sale, and therefore punishable as a principal in violating the statute inhibiting sale to minors. In misdemeanors all persons who procure, participate in, or assent to the commission of a crime are regarded as principals and indictable as such.

Foster vs. State, 45 Ark., 361.

MINOR—ILLEGAL TO SELL TO MINOR FOR USE OF ANOTHER.—

One who sells whisky to a minor, who purchases in behalf of an undisclosed principal, is guilty of a misdemeanor, under S. & H. Dig., § 1812 (Laws 1889, p. 122), declaring that the sale of liquors to a minor, without the written consent of a parent or guardian, shall be a misdemeanor.

State vs. Neelly (Ark.), 28 S. W. Rep. 800.

MINOR—MERE ACT OF DEFENDANT IN PASSING BOTTLE IS NOT PROOF THAT HE AIDED IN GIFT OF LIQUOR TO MINOR.—

On a trial for having unlawfully given liquor to one M, a minor, it is error for the court to charge the jury that, "if you find from the evidence that a person other than defendant presented a bottle of whisky to a crowd of persons, in which * * * M, a minor, was standing, and that such person ordered the bottle generally to be passed around to members of the crowd, * * * and M, who was a minor, received the bottle, and drank of it, whether from the hands of defendant or other person, every person who assisted to pass the bottle would be guilty of the offense, and you should convict defendant," since such charge makes the mere act of defendant in passing the bottle conclusive evidence that he aided in the gift of the whisky to the minor.

Miller vs. State, Arkansas.

MINOR—SALE TO MINOR ILLEGAL EVEN THOUGH LIQUOR IS FOR ADULT.—

A person who sells intoxicating liquor to a minor, though the liquor is intended to be, and is, drunk by a man of full age, violates section 204, Rev. St. 1881, making it unlawful to sell intoxicating liquor to a minor.

Sumner vs. State, Indiana.

MINOR—BELIEF AS TO AGE IS NO EXCUSE.—

A showing that, from inquiries and the general appearance of the purchaser of intoxicating liquors, the vendor was justified in believing he was of age, is no defense to an action for the statutory penalty for selling liquors to minors.

Fielding vs. La Grange, 73 N. W. 1038.

MINORS—KNOWLEDGE OF BEING UNDER AGE NOT ESSENTIAL TO OFFENSE.—

Where the statute prohibiting the sale of intoxicating liquors to minors does not make knowledge that the purchaser is a minor essential to the offense, instructions, in a prosecution, therefore, that defendant cannot be convicted if the purchaser had the appearance of being of full age, and if the sales were made to him in good faith in the belief that he was an adult, are properly refused.

Commonwealth vs. Gould (Mass.), 33 N. E. Rep. 656.

MINOR—COMPLAINT NEED NOT ALLEGE DELIVERY OF LIQUOR, OR FOR WHOSE USE IT WAS BOUGHT.—

Under Pub. St., ch. 100, § 9, cl. 4, which prohibits the sale of liquor to a minor either for his own use, the use of his parent, or of any other person, a complaint which charges a sale to a minor is sufficient without alleging a delivery of the liquor to him, and without any averment showing for whose use the liquor was bought.

Commonwealth vs. Murphy, Massachusetts.

MINOR—EVIDENCE OF SALOONKEEPER'S REPUTATION IN OBSERVING LAW PROPERLY EXCLUDED.—

On the trial for selling liquor to minors, the Court properly excluded evidence of defendant's reputation in

regard "to observing the conditions of his license, and particularly as to selling or permitting the sale of intoxicating liquors to minors," and also evidence of the reputation of his saloon; since the rule that a defendant may put in evidence his general good reputation in regard to the elements of character involved in the commission of the crime charged against him applies to acts involving moral turpitude but not to acts prohibited by penal statutes.

Commonwealth vs. Nagle (Mass.), 32 N. E. Rep. 861.

MINOR—ADMISSION OF EVIDENCE FOR DEFENDANT.—

In a prosecution for selling liquor to a minor, where defendant sought to show that he endeavored to comply with the law, and that his clerks acted under strict orders, which would materially reduce the number of sales he might legally make, it was within the discretion of the Court to admit evidence as to the number of sales within a certain week, excluding Sunday, and the number during the week following.

Commonwealth vs. Stevens, Massachusetts.

MINORS—MESSENGERS FOR PARENTS.—

Judge Carey at St. Paul, Minn., discharged saloonkeepers arrested for selling to minors, on the ground that the minors acted only as messengers for their parents or guardians and that the sales therefore were legal.

MINOR—SALES BY EMPLOYE—DEFENDANTS MAY PROVE THAT SALE WAS CONTRARY TO THEIR ORDERS.—

Rev. St., §4589, providing that a sale of intoxicating liquor to a minor by a clerk or agent shall be deemed the act of the principal, establishes merely a *prima facie* rule of evidence, and, where it appears that a clerk made the sale in defendant's absence, defendants may prove by themselves and the clerk that the sale was without their consent, and contrary to their express orders.

State vs. Weber (Mo.), 20 S. W. Rep. 33.

MINOR—MISREPRESENTATION OF AGE WILL NOT EXONERATE SALOONKEEPER.—

An old statute of Pennsylvania makes it a criminal offense to sell liquor to a minor, but the legislature of 1881 made it also a criminal offense for the minor to misrepresent his age. This act barred the prosecution of saloonkeepers, as they could take counter proceedings against the minor. The high license law of 1887 directs the Court of Quarter Sessions to revoke any license where proof is given of liquor sales to minors. Judge Barker upholds this law and rules that misrepresentation by the minor will not save the liquor dealer. If his judgment of the customer's age is not correct, he must pay the penalty.

Decision by Judge Barker, Cambria County, Pa., July, 1894.

MINOR—GOOD FAITH AND HONEST INTENTION NO DEFENSE IN SELLING TO MINOR, BUT THEY SHOULD MITIGATE PENALTY.—

One who sells intoxicating liquor to a minor, though innocently ignorant of the fact, violates and incurs the penalty of the law, notwithstanding the purchaser makes an affidavit that he is over the age of 21 years. While good faith and honest intention constitute no defense, evidence of that character should be considered in mitigation of the penalty.

State vs. Sasse (S. Dak.), 60 N. W. Rep. 853.

MINOR—SALE TO ANOTHER FOR MINOR NOT AN OFFENSE.—

Selling to another and delivering the liquor to a minor at the purchaser's request does not render the seller guilty of selling or giving it to the minor.

Bartman vs. State (Tex.), 43 S. W. 984.

MINOR—DEALER LIABLE REGARDLESS OF HIS BELIEF OF AGE.—

Where a minor is permitted to enter and remain in a retail dealer's place of business, such dealer and his bondsmen are liable to the penalties imposed by Acts 1887, p. 59, regardless of whether the owner or his agents in charge of

such place believed, or had reason to believe, that such minor was over 21 years old.

State vs. Meyer (Tex.), 23 S. W. Rep. 427.

MINOR—SALOONKEEPER MUST PROVE PARENT'S CONSENT.—

On the trial of a person charged with selling liquor to a minor, it is incumbent on defendant to prove that he sold it on the written order of the parent, guardian, or person authorized to give such order, since such fact is peculiarly within defendant's knowledge.

Reynolds vs. State (Tex.), 22 S. W. Rep. 18.

MINOR—OFFENSE TO SELL TO MINOR FOR ANY PURPOSE.—

It is an offense to sell it to a minor without the written consent of his parents or guardians, as required by Pen. Code, art. 376, though he intended to burn it in a lamp used by his customers in lighting cigars purchased by them from him.

Rucker vs. State (Tex.), 24 S. W. Rep. 902.

MINOR—IT IS SALE TO MINOR WHERE HE PURCHASES LIQUOR FOR AN ADULT WITH ADULT'S MONEY AND WRITTEN ORDER.—

A minor, going to a saloon with money furnished by an adult, and having a written order signed by him, bought liquor, which he took to the adult, who with others drank it. The Court of Criminal Appeals of Texas, following former decisions, held that this was a sale to a minor, within the statute.

Horsky vs. State, 36 S. W. Rep. 443.

MINOR—SALOONKEEPER IS LIABLE WHO SELLS TO ANOTHER WITH THE KNOWLEDGE THAT HE IS PURCHASING FOR MINOR.—

A saloonkeeper who, although refusing to sell liquors to minors, sells them to a bystander, with the knowledge that he is purchasing them for the minors, who give the money to the bystander, who in turn pays it to the seller, is liable for selling or causing liquors to be sold to minors.

Starling vs. State (Tex.), 30 S. W. Rep. 445.

MINOR—DELIVERY OF LIQUOR TO A MINOR NOT A SALE TO HIM.—

In the case Laing vs. State 28 S. W. Reporter, 1040, Court of Civil Appeals of Texas the question presented is whether the liquor dealers violated the condition of their bond forbidding them to sell, or permit to be sold, intoxicating liquor to a minor; in other words, whether the facts show a sale to a minor. A minor was with the consent of his parents in the employ of a firm doing business near a saloon; that a member of this firm sent him with a bucket and ten cents to the saloon for the purpose of purchasing for this member of the firm a bucket of beer; that the minor informed the keeper of the saloon that the beer was for one of his employers; that he got the beer and took it to the party who had sent him for it. The minor had frequently before this occasion been sent to a saloon in like manner.

The Court held: The word "sale" is a legal term of fixed and definite meaning. By the contract of sale the property and the title thereto pass to the purchaser. Here the relation of seller and purchaser neither really nor apparently existed between the saloonkeeper and the minor. No title really or apparently passed by the transaction to the minor. On the contrary, it really and apparently passed to the principal—his employer. He and not the minor was the purchaser. We are unable to impute to the legislature an intention to include or cover a transaction beyond the plain import of the language which it used in the enactment of the statute. The sale was to the employer and not to the minor.

MINOR—RETAIL DEALER—BOND.—

In an action to recover statutory penalties on the bond of a retail liquor dealer, in which the breach alleged is that such dealer permitted a minor to enter and remain in his place of business, it is no defense that such minor was a partner in the business, where he is not a party to the bond.

Drake vs. State (Tex.), 23 S. W. Rep. 398.

MINOR NOT TO BE ALLOWED ON PREMISES.—

The liquor law of 1893, expressly repealing all parts of acts inconsistent therewith by making it a breach of a retail liquor dealer's bond to permit a minor to enter and remain on the premises, only where the liquors are kept for sale "to be drunk on the premises," repeals the provision of the liquor law of 1887, making it a breach of the bond to allow a minor on the premises, though liquors are kept for sale merely to be carried away and used.

Drake vs. State (Tex.), 23 S. W. Rep. 620.

MINOR—UNNECESSARY TO AVER IN INDICTMENT THAT SALOONKEEPER KNEW PERSON TO BE MINOR.

To make a licensed seller of liquors liable under section 16, ch. 32, Code 1887, for selling to a minor, it is not necessary to aver in the indictment that he knew, or had reason to believe, the person to be a minor.

State vs. Bear (W. Va.), 16 S. E. Rep. 368.

CHAPTER XV.

SALES ON SUNDAY AND HOLIDAYS.

ELECTION DAY—GIFT OF INTOXICANTS—ILLEGAL ON ELECTION DAY UNDER ANY PRETEXT.—

Under Mansf. Dig., § 1850, making it an offense to give away intoxicating liquors on the day of an election in any county in which the election may be held, it is immaterial that the giving away of the intoxicating liquor has no reference to the election, as the statute makes no exception.

Wolf vs. State (Ark.), 27 S. W. Rep. 77.

SUNDAY—LICENSEE IN TOWN OR CITY THAT TAKES CONTROL OF LIQUOR TRAFFIC CANNOT BE TRIED UNDER STATE STATUTE FOR SUNDAY SALE.—

Gen. St. Col. 1883, subd. 18, sec. 3312, provides that towns and cities shall have the "exclusive right to license, regulate, or prohibit the selling or giving away of any intoxicating malt, vinous, mixed, or fermented liquors, within the limits of the city or town," etc.: Held, that where a town takes control of its liquor traffic, under this statute, and grants licenses, a licensee cannot be indicted under a general statute of the state prohibiting "keeping open a tippling house on the Sabbath day."

Cunningham vs. People, Colorado.

SUNDAY SALES—NOT NECESSARY TO SHOW LIQUOR WAS DRANK ON PREMISES.—

To justify a conviction of keeping open a tippling house on the Sabbath, it is not necessary to show that the liquor sold was drunk on the premises; it is enough that it was drawn out and delivered in open vessels.

Harris vs. People (Colo.), 28 Pac. Rep. 1113.

SUNDAY SALE BY CLUB.—

The mere fact that the selling and drinking of intoxicating liquors was "only an incident, and not the main object," of the incorporation of a social club, will make the place where such liquors are dispensed and drunk none the less a tippling house, within the meaning of the statute making penal the keeping open of such houses on the Sabbath day.

Mohrman vs. State (Ga.), 32 S. E. Rep. 143.

SUNDAY—PERMITTING PERSON IN SALOON.—

The permitting a person not a member of the saloon proprietor's family to be in his place of business on Sunday is of itself an offense.

State vs Mathis (Ind.), 50 N. E. 398.

CITIZEN OF INDIANA MAY GIVE TO FRIEND ON HOLIDAY.—

On April 18th, 1899 the Appellate Court of Indiana reversed the decision of the lower court. The Court held that the legislature of Indiana has never attempted to legislate directly upon the use of intoxicants by the individual except where such use is carried to excess, and that, while the law fixes a penalty upon "whoever sells or gives away liquors on a holiday," the act must be construed to mean men who are engaged in the traffic, and not a citizen who gives to his friends in a social way.

The court further held that while the appellant, Austin, was technically guilty, and there was no intent on his part to violate the spirit or intent of the law.

SUNDAY—SALE IN DWELLING HOUSE.—

The offense of keeping open a tippling house on the Sabbath day is sufficiently proved by evidence showing that the accused, on at least three different Sundays within the same year, in her dwelling house, sold whisky by retail to different persons, and permitted it to be drunk on the premises.

Williams vs. State (Ga.), 28 S. E. 624.

HOLIDAY—MAY BE FOR PURPOSES OF COMMERCIAL PAPER ONLY AND NOT ONE ON WHICH IT IS ILLEGAL TO SELL LIQUOR.

Act March 9, 1891, entitled, "An act to amend an act entitled, 'An act in relation to promissory notes, bonds, checks and bills of exchange and to designate the holidays to be observed in the presentment, acceptance and payment of the same,'" and providing that the 30th day of May, among others, shall be a legal holiday, constitutes it such only for the purposes of commercial paper, and does not make it a holiday within the meaning of Rev. St. 1881, § 2098 (Rev St. 1894 §2194), forbidding a sale of intoxicating liquors as a beverage on a legal holiday.

State vs. Atkinson (Ind.), 39 N. E. Rep. 51.

SUNDAY—IF PERSON FOUND DOOR OPEN ON SUNDAY AND HELPED HIMSELF TO LIQUOR, IT IS EVIDENCE OF GIVING AWAY LIQUOR ON SUNDAY.—

Evidence that a person walked into the defendant's saloon on Sunday morning, in defendant's sight, went behind the bar, and helped himself to a glass of whisky, is sufficient to justify a conviction for giving away intoxicating liquor on Sunday to be drunk as a beverage.

Baker vs. State, Indiana.

SUNDAY—CANNOT OPEN TO PREPARE FOR MONDAY.—

An opening of a saloon to prepare for business Monday is a violation of the Iowa law which declares that saloons shall not be open at all on Sunday.

Rosenthal vs. Hobson (Ia.), 77 N. W. Rep. 488.

SALES ON LABOR DAY.—

By Act Mass. 1887, ch. 263, Labor Day was made a legal holiday. Acts Mass. 1888, ch. 254, § 1, prohibits sale of intoxicating liquors by common vitualers on certain specified holidays, but not enumerating Labor Day. Section 2 of that act prohibits sales by licensed innholders on "either of the days named" in the first section, except to *bona fide* guests or travelers, sojourning at the inn. Acts 1889, ch. 347, added to the holidays named in section 1 of the Act of 1888 "Labor Day."

Held, that a licensed innholder could sell on Labor Day only to *bona fide* guests or travelers sojourning at his inn.

SUNDAY SELLING—"CLOSED" APPLIES TO EVERY MEANS OF INGRESS.—

Defendant's living room was in the rear of his saloon, which had a front door, and also a door opening into the living room. On one side of the saloon was a hall, with a front door opening into the saloon, and there was no way of getting from the hall to the living room except through the saloon. On Sunday three men came into the hall, but did not go into the saloon. One asked for tobacco, and defendant stepped into the saloon, got it, and gave it to him. The bartender passed through the saloon that day: Held, that the

saloon was not closed, within 3 How. Ann. St., § 2283e, providing that the word "closed" applies to the back door or other entrance, as well as to the front door; and that in prosecutions under the section it need not be proved that any liquor was sold.

People vs. Schottey (Mich.), 74 N. W. Rep. 209.

SUNDAY—UNNECESSARY TO PROVE SALE WITHIN PARTICULAR ROOM.—

The keeping open of a room on Sunday which is an adjunct of a saloon and in which liquors are served from the saloon on week days is a violation of Pub. Acts. 1887, p. 455, requiring the closing of saloons, etc., on Sunday; and it is sufficient to show that there was a temporary bar, where liquors were furnished and drank by customers, and not necessary to prove that they were paid for or technically sold within the particular room.

People vs. Ringsted (Mich.), 51 N. W. Rep. 519.

SUNDAY SALE—FORM OF COMPLAINT SUFFICIENT.—

How St., § 2283e, requires saloons and other places, except drug stores, where intoxicating liquors are sold, to be closed on the first day of the week, commonly called "Sunday": Held, that a complaint for violation thereof is sufficient which charges that defendant was the proprietor of a place where intoxicating liquors were sold, said place not being a drug store, and that on a stated day, which was the first day of the week, commonly called "Sunday," she kept her said place open, and did not keep it closed, as required by law.

People vs. Wheeler (Mich.), 55 N. W. Rep. 371.

SUNDAY—OPENING SALOON EVEN WITHOUT SELLING ILLEGAL.—

On trial for keeping a saloon open on Sunday, an instruction that it made no difference whether the defendant sold any liquor or not, that he had not the right to let persons, into the saloon, is not open to objection on the ground that it assumes that defendant let persons into his saloon.

People vs. Bowkus (Mich.), 67 N. W. Rep. 319.

SUNDAY SALES—OWNER PRIMA FACIE RESPONSIBLE FOR OPENING.—

Under the ordinances of the City of Minneapolis requiring saloons and places where intoxicating liquors are sold to be closed and kept closed on Sundays, the owner is *prima facie* responsible for such place being open on Sunday, whether he is present or not.

State vs. O'Connor (Minn.), 59 N. W. Rep. 999.

SUNDAY SALES—ENGAGING IN LABOR.—

Comp. Laws 1884, § 933, provided that any person found on Sunday engaged in "selling liquors, or any other kind of property," or "engaged in any labor, except works of necessity, charity or mercy," should be punished. Laws 1887, ch. 26, amended section 933, *inter alia*, by omitting the words "selling liquors, or any other kind of property," and imposed the penalty on anyone found on Sunday "engaged in any labor, except works of necessity, charity or mercy": Held, that a person selling liquor was, notwithstanding the omission, engaged in labor, within the meaning of the amendment.

Cortesy vs. Territory (N. Mex.), 32 Pac. Rep. 504.

SUNDAY SALE—DENTIST NOT PHYSICIAN.—

A dentist is not a physician, within Code, § 1117, prohibiting the sale of liquor on Sunday, unless prescribed by a "physician."

State vs. McMinn (N. C.), 24 S. E. Rep. 523.

SUNDAY CLOSING—SALOONKEEPER'S INTENTION IMMATERIAL.—

If there is any place of ingress available to the public or the place was so kept that access might be had thereto on Sunday, and facilities afforded for obtaining drinks, it is a violation of the Ohio law requiring saloons to be closed on Sunday; and saloonkeepers' intention in allowing the saloon to remain open is immaterial.

State vs. Heibel (Ohio), Sup. Ct. 1896.

SALE ELECTION DAY.—

The "election day" mentioned in section 6948, Rev. St., is a whole day of twenty-four hours; and the keeper of a place where spirituous, vinous, or malt liquors are habitually sold and drank is required to keep such place closed during the whole twenty-four hours of the day of any election.

Schuck vs. State (Ohio), 34 N. E. Rep. 563.

SUNDAY—PRIVATE CITIZEN IN HIS OWN HOUSE CAN FURNISH LIQUORS ON SUNDAY TO FAMILY OR GUESTS.—

Section 17 of the act of May 13, 1887, entitled "An act to restrain and regulate the sale" of intoxicating liquors, provides that "it shall not be lawful for any person, with or without license, to furnish by sale, gift, or otherwise, to any person, any spirituous, vinous, malt or brewed liquors on any day upon which elections are now or hereafter may be required to be held, nor on Sunday, nor at any time to a minor," etc. Held, that this section does not prevent the use of liquors by a private citizen on his own table on Sunday, nor prohibit him from furnishing them to his family or guests at his own house.

Commonwealth vs. Carey, (Pa.), 25 Atl. Rep. 140.

SUNDAY—OPENING AND GIVING AWAY BEER ILLEGAL.—

An ordinance making it a misdemeanor to sell, deal out, or give away malt, vinous or other liquors on Sunday, or to keep open on Sunday any place where liquors are sold, is violated by a proprietor of a saloon who invites others to his saloon on Sunday, unlocks the door, and admits them, and gives them beer, which they drink therein.

Johnson vs. Mayor of Chattanooga, Tenn., 36 S. W. Rep. 1092.

ELECTION DAY—KEEPING SALOON OPEN—VALIDITY OF ELECTION CANNOT BE ATTACKED.—

A motion to quash an indictment charging defendant with keeping open his saloon on an election day, on the ground that the election was not legally authorized, will not

he granted, as its validity cannot be collaterally attacked, where it is held under the forms of law.

Wear vs. State (Tex.), 26 S. W. Rep. 68.

SUNDAY—MUNICIPAL REGULATION OF FT. WORTH, TEX.—

Section 56 of the charter of the city of Ft. Worth, which provides that the common council of said city shall have power "to close drinking houses and all places or establishments where intoxicating or fermenting liquors are sold on Sunday," does not vest in the city exclusive power by ordinance to regulate, control, and prohibit the traffic in liquor on Sunday within the corporate limits of the city, so as to supersede, within the city limits, the operation of the state laws against such offense.

Ginnochio vs. State, Texas, 1892.

CHAPTER XVI.

SOCIAL CLUBS.

THE DECISIONS AS TO LIQUOR SELLING IN CLUBS.—

The leading case which holds the dispensing of liquors by a club to its members is not a sale, under the revenue laws of England, is Graff vs. Evans, 8 Q. B. Div. 373. The same result was reached by the Supreme Court of Massachusetts in Com. vs. Pomphret, 137 Mass. 121, by the same court a conviction was sustained where the proof showed that the club was not a *bona fide* organization. The Supreme Court of Maryland, in Seim vs. State, 55 Md. 566, held the transaction not a "sale." So, also, the Supreme Court of Tennessee in Club vs. Com., 87 Va. 511, the Supreme Court of Virginia held that the sale of liquor by the Piedmont Club was not such a sale as was contemplated by the statute. In State vs. McMaster, 11 S. E. Rep. 290, the Supreme Court of South Caro-

lina, in deciding that a social club is not liable to pay license, points out that much of the seeming conflict of the cases arises from two causes: First, where the alleged club, as a matter of fact, is not *bona fide* what it purports to be, but is a mere device to evade the law against retailing liquor without a license. In all such cases, of course, the club is liable. And, second, from the difference in the terms of the various acts upon the subject, each court construing for itself the laws and regulations of its own state. In Barden vs. Club, 25 Pac. Rep. 1042, the Supreme Court of Montana reach the same conclusion as the cases above cited. The most recent case is Koenig vs. State, 26 S. W. 835, in which Judge Hurt, for Court of Criminal Appeals of Texas, reviews all the late cases, pro and con, and holds that the club room of a German Turnverein, maintained in connection with a hall used for the usual purposes of such a society, and equipped with periodicals, billiard tables and card tables, for the free use of its members, where intoxicants are furnished without profit, to members only for fees which are turned into the general fund, is not a house for retailing liquors within the Penal Code of Texas (article 355) which prohibits card playing in such places.

INCORPORATED ASSOCIATIONS—ILLEGAL SALES.—

An incorporated benevolent association, which sells, as such, to its members, for five cents each, tickets entitling the holder at a picnic of the association to a glass of beer or other refreshment, or to participate in some amusement, at his option, who, upon presentation of the ticket, and any number he may see fit to purchase, obtains from the association beer therefor, which beer is the property of the corporation, as such, thereby becomes a dealer in malt liquors, within the act of March 1, 1879, § 18, which defines such dealer to be one who sells or offers for sale in less quantities than five wine gallons at one time where he does not deal in spirituous liquors. The case would be different where the beer was bought on previous contributions by the mem-

bers, or as co-partners in the purchase, and the assessment was based upon the proportion taken or consumed by each contributor, or like circumstance.

United States vs. Giller, U. S. C. C. (Mo.), 51 Fed. Rep. 656.

SOCIAL CLUB WHERE LIQUORS ARE SOLD IS A BARROOM.—

A social club wherein liquors are dispensed without profit to the members and guests for cash or on credit, to be consumed on the premises, and the money so realized goes into a fund, with which the stock of liquors is replenished from time to time, is a barroom within the meaning of the excise law of 1893, and is not exempt from the payment of the license fee fixed by the act.

Army and Navy Club vs. District of Columbia, 8 App. D. C. 541.

SOCIAL CLUB—LIABLE TO LICENSE UNDER SECTION 11 OF LICENSE TAX LAW OF LOUISIANA.—

Without regard to trade or business, or to the fact that the proceeds are not realized with a view to profit, or for a livelihood, incorporated institutions, engaged in selling intoxicating liquors to their members, owe a license under the paragraph of section 11 of the license tax law, designating "sales, gifts, or other disposition" as subject to a license tax.

State vs. Boston Club (La.), 12 South. Rep. 895.

SOCIAL CLUBS—SALE OF LIQUOR BY CLUBS AND AT DANCES.—

The internal revenue officials of Minnesota have made the following decisions regarding the sale of liquor by clubs and at parties:

In case one society has paid the tax of liquor dealer and rents its hall to other societies, the society so renting would not be entitled to the privilege of selling liquors upon the special tax stamp issued to the lodge which had paid the tax.

In case of a society or club having a social gathering and serving a supper or lunch, and beer or wine being on the bill of fare, and the members paying equally for the supper, the society or club giving the supper would be liable as a retail liquor dealer by reason of dispensing

liquors, whether it sold the liquors individually at the supper or whether the liquors were paid for with the regular fee for the supper and entertainment.

Persons selling liquor at a dance, the privilege of liquor being included in the amount paid for the ticket, would render the person so disposing of the liquor liable to the tax, from the fact that no one would be permitted to enjoy the privilege of the beer unless he bought a ticket. This would establish the fact that such privileges were paid for by the ticket holder.

SOCIAL CLUB—MUST NOT SELL TO MINORS OR WITHOUT LICENSE.—

A social club, having a back room partly disconnected from its parlors and fitted up with a sideboard from which drinks are sold by a salaried steward to members and visitors at a price fixed, under the laws of the club, by a "governing committee," is, if drinks are sold without a license, or to a minor member, indictable under the law prohibiting unlicensed retailing and sales to minors, and declaring that any person who shall directly, or by any evasion or subterfuge, violate any provisions of the act, shall be liable to indictment.

Nogales Club vs. State (Miss.), 10 South. Rep. 574.

SOCIAL CLUBS—MAY SELL IN MISSOURI.—

When a *bona fide* social club, with limited membership, admissions to which cannot be obtained by persons at pleasure, and whose property is actually owned in common by its members, distributes liquors belonging to it among them, it is not a "sale" of liquor within the Missouri dramshop act.

State of Missouri vs. St. Louis Club—Sup. Ct. Decision.

SOCIAL CLUBS—CAN SELL TO MEMBERS WITHOUT LICENSE.—

A social club, not organized for the purpose of evading the liquor laws, but which furnishes its members with

liquors and refreshments, without profit to itself, is not engaged in the sale of intoxicating liquor by retail, within the meaning of Statutes Mont., which imposes a license tax on all persons who deal in, sell, or dispose of intoxicating liquors by retail.

Supreme Court of Montana, January, 1891.

SOCIAL CLUBS—NO LICENSE REQUIRED WHERE SALES ARE WITHOUT PROFIT.

A social club that dispenses intoxicating liquors among its members and receives for each drink money with which to replenish the supply, no profit being made, is not within Gen. St., ch. 55, § 1731, providing that "it shall be unlawful for any person or persons to sell such liquors without a license so to do."

State vs. McMaster, South Carolina.

SOCIAL CLUB—SELLING ONLY TO MEMBERS IN GOOD FAITH AND NOT FOR PROFIT NEEDS NO LICENSE.—

A club organized, in good faith, for the promotion of social intercourse and the encouragement of literature and art, in selling intoxicants, in a private manner, only to its members and not resident guests, but not with a view to profit, is not liable for the tax imposed by Sayles' Civ. St., art. 3226a, on persons engaged in the occupation of selling liquors.

State vs. Austin Club (Tex.), 38 S. W. Rep. 113.

SOCIAL CLUBS—MUST OBTAIN LICENSE.—

It is unlawful for a literary and social club, without first obtaining a state license therefor, to sell intoxicating liquors to its members.

State vs. Shumate (W. Va.), 29 S. E. 1001.

CHAPTER XVII.

SALE BY TENANT AND OTHERS.

SALE BY TENANT—WITHOUT KNOWLEDGE OF OWNER.—

A person, without the knowledge or consent of the owner of a building, entered it, and for two or three days illegally sold liquor therein. At the time of filing a suit against the owner to abate such acts as a nuisance the sales and occupancy of the building had ceased. Held, that the suit would not lie.

Merrifield vs. Swift (Iowa), 72 N. W. Rep. 444.

SALE BY TENANT—NUISANCE.—

The fact that defendant's building was notoriously used by his tenants as a saloon, and written notice thereof was left at his home, shows that he knew that his building was being used for the sale of liquor.

Hamilton vs. Baker (Iowa), 58 N. W. Rep. 1080.

SALE BY TENANT—LIABILITY OF NON-RESIDENT LANDLORD.—

A nonresident landlord, who upon receiving notice of an action charging the unlawful sale of intoxicating liquors upon his premises, with his permission, makes no effort, either in person or through an agent, to stop such sales, except by serving upon the tenant a notice to quit, and who then permits the tenant to remain in possession for some days, must be held to have known and acquiesced in the sales after that time.

State vs. Grim (Iowa), 52 N. W. Rep. 351.

ILLEGAL SALE—SALE BY CLERK—IF PRINCIPAL ABSENT, HIS KNOWLEDGE OR CONSENT MUST BE ESTABLISHED.—

Where a defendant is charged with the unlawful sale of intoxicating liquor and with maintaining a common nuisance by keeping a place where liquors are unlawfully sold, and the evidence shows that certain sales were made at the

defendant's place of business by another person, and in the absence of the defendant, there must be sufficient competent evidence to establish the fact that such sales were made by some clerk, agent, or employe of the defendant with the knowledge or consent of the defendant, in order to sustain a conviction.

State vs. Beam (Kan.), 42 Pac. Rep. 394.

SALE BY WIFE—LIABILITY OF HUSBAND.—

Where a wife kept in her husband's house liquors for sale in violation of law, the husband is liable for maintaining a liquor nuisance, if he had knowledge of the fact of her intent, unless he used reasonable means to prevent her from carrying out such intent.

Commonwealth vs. Walsh (Mass.), 42 N. E. Rep. 500.

SALE BY TENANT—GUILT OF LANDLORD.—

A person is guilty of keeping a building for the unlawful sale of liquor who knowingly permits another person to keep liquor therein for such purpose, though he himself does not intend to make any sales.

Commonwealth vs. Reed (Mass.), 38 N. E. Rep. 365.

ILLEGAL SALE—SALE BY TENANT—LANDLORD MUST NOT PERMIT.—

Under Pub. St., ch. 101, making it penal to keep or maintain a building used for the illegal keeping of intoxicating liquors, one is guilty who knowingly allows to be kept in his house liquors belonging to another, which such other intends for illegal sale.

Commonwealth vs. Lynch (Mass.), 35 N. E. Rep. 854.

SALE BY TENANT—RENT MAY BE RECOVERED.—

The mere fact that the lessor knew it was the intention of the lessee to use the premises for the illegal sale of liquor does not void the lease so as to prevent a recovery of the rent.

Miller vs. Maguire (R. I.), 20 S. E. Rep. 966.

SALE BY CLERK—CONTRARY TO ORDER OF EMPLOYER.—

One cannot be convicted of selling liquors, contrary to a local option law, on evidence that any sale made was by his clerk, unknown to him, against his express orders, and in his absence.

Wadsworth vs. State (Tex.), 34 S. W. Rep. 934.

CHAPTER XVIII.

INJUNCTION.

INJUNCTION—LIQUOR NUISANCE.—

Code, § 1543, provides that "any person violating the terms of any injunction" to restrain a liquor nuisance "shall be punished as for contempt": Held, in proceedings for contempt, that a decree enjoining certain parties therein named from keeping a liquor nuisance on certain premises was not binding on a subsequent purchaser of the premises, or on his lessees.

Buhlman vs. Humphrey (Iowa), 53 N. W. Rep. 318.

INJUNCTION—LIEN ON PROPERTY OF OWNER OF PLACE ENJOINED AS LIQUOR NUISANCE.—

The plaintiff in an action by a private citizen to enjoin a liquor nuisance is the proper party plaintiff in an action to make a fine, imposed on defendant therein for violation of the injunction, a lien on the property of the person who knowingly permitted such defendant to use it in violating the law and such injunction.

Cameron vs. Kapinos (Iowa), 66 N. W. Rep. 677.

INJUNCTION—INSUFFICIENT EVIDENCE.—

H. was improperly adjudged to have violated an injunction against the sale of intoxicating liquors in buildings on a certain lot, when the only testimony was that the S.

building on W. street was on such lot; that in the first building south of a certain hotel on W. street a witness bought liquor from a man whose name he did not know, and that afterwards he bought liquor from a lady, who, he was informed, was Mrs. H.

Hinkle vs. Smith (Iowa), 57 N. W. Rep. 891.

INJUNCTION—WHERE FIRST INJUNCTION IS CONCLUSIVE.—

A second injunction will be granted to enjoin the maintenance of a place for the sale of intoxicating liquors where it is shown that the first, although in full force, was obtained by fraudulent intent and collusion with defendant for the purpose of allowing it to remain without enforcement.

Cameron vs. Tucker (Iowa), 73 N. W. Rep. 601.

INJUNCTION—NUISANCE.—

Acts 22d Gen. Assem., ch. 73, § 4, provides that an injunction to restrain a liquor nuisance shall bind the person enjoined throughout the judicial district in which the action is brought, and, if one so enjoined shall again be concerned in the sale of liquor in the district, he shall be guilty of contempt: Held, that one might be adjudged so guilty though the action in which the injunction was granted was begun before the act took effect, and though the decree for an injunction did not in terms provide that it should operate throughout the district.

McGlasson vs. Johnson (Iowa), 53 N. W. Rep. 267.

INJUNCTION—RIGHT TO MAKE PERMANENT.—

On October 8, 1889, plaintiff pleaded guilty to a complaint for selling liquor contrary to law, and stipulated that a temporary injunction might issue against him, which the court issued accordingly. On May 9, 1891, a decree was signed by the court as of October 8, 1889, permanently enjoining defendant from further violation of the law, and served on him June 29, 1891: Held, the court might order a permanent injunction at any time while the case remained

for action on its docket; and the fact that defendant consented to a temporary injunction did not rob the court of its right to make it permanent on a plea of guilty.

Cunningham vs. Gaynor (Iowa), 54 N. W. Rep. 248.

INJUNCTION—NUISANCE—SALOON NOT SUCH.—

Railroad company cannot have saloons abated as nuisances and county commissioners enjoined from granting licenses on the ground that the men employed by them for dynamiting and other dangerous employments by frequenting such saloons become incapacitated for work and greatly delayed the building of their railroad.

Northern Pac. R. R. Co. vs. Brooks, U. S. Sup. Ct., 1893

CHAPTER XIX.

POWER OF OFFICER.

POWER OF CONSTABLE—CANNOT SEARCH WITHOUT WARRANT.—

A federal court has jurisdiction to entertain proceedings for contempt against a constable who, without warrant, searches railroad premises in possession of the court's receiver, and seizes liquors deposited therein, and to determine in such proceeding whether the receiver was violating the state statutes, and whether the seizure was authorized thereby.

In re Swan, U. S. S. C., 14 S. C. Rep. 225.

POWER OF OFFICER—ARREST—NECESSITY FOR WARRANT.—

A police officer, upon seeing the agent of a beer company make a gift of a bottle of beer to a third person, upon the agent's premises, during the time when gifts of intoxicating liquors were prohibited by law, is empowered to arrest the agent without a warrant under Rev. St. 1894, § 1771 (Horner's Rev. St. 1896, § 1702), providing that a

police officer is a peace officer authorized to arrest any person violating a state law, until a legal warrant can be had.

Weser vs. Welter (Ind.), 47 N. E. Rep. 639.

POWER OF OFFICER—DELAY FOR THREE DAYS UNLAWFUL.—

An unexplained and hence apparently needless delay for three days in the execution of a warrant to search for intoxicating liquors is unreasonable, and hence unlawful.

State vs. Guthrie (Maine), 38 Atl. Rep. 368.

POWER OF OFFICER—IN FORCE ONLY REASONABLE TIME.—

A warrant to search for intoxicating liquors remains in force for a reasonable time only.

State vs. Guthrie (Maine), 38 Atl. Rep. 368.

POWER OF OFFICER—SEARCH WARRANT—AFFECTS ONLY TENANT WHO VIOLATES LAW.—

Where a search warrant is issued under the provisions of the prohibitory liquor law directing the search of a building occupied by two or more tenants in separate and distinct tenements, and intoxicating liquors are found in one of such tenements only, the officer must, under the statute, take possession of and close such tenement, but cannot close the tenements of the other tenant or tenants.

State vs. Markuson (N. Dak.), 73 N. W. Rep. 82.

CHAPTER XX.

JURY AND JUROR.

JUROR—MEMBER OF GOOD TEMPLARS COMPETENT.—

In a criminal prosecution, where the defendant was charged with keeping and maintaining a nuisance, to-wit: a place for the sale of intoxicating liquors, a person who was called as a juror was shown by his own testimony to be a member of an organization called the "Good Templars,"

such person was not shown by the facts to be incompetent to serve as a juror in the case.

State vs. Estlinbaum, Kansas.

JUROR—WHOLESALE LIQUOR DEALER COMPETENT TO SERVE ON JURY IN CASE OF SELLING TO INEBRIATE.—

In this action to recover damages on account of the sale of liquor by defendant to plaintiff's husband, who, it was alleged, was in the habit of becoming intoxicated, the plaintiff cannot complain on account of the action of the court in permitting a wholesale liquor dealer to serve on the jury. There was no statute rendering him incompetent; hence his acceptance cannot be held to be error of law.

Owen vs. Cramer, Appellate Ct., Kentucky, February, 1895.

JURY FEES—NOT IMPERATIVE.—

Judge Dunne, of Chicago, overruled the demurrer to the petition for *mandamus* filed against Justice John K. Prindiville compelling him to issue a special venire at the instance of Charles Horn. The latter was arrested for selling liquor to a minor and before the justice demanded a jury trial, which was denied because Horn refused to pay the fees of the jurors in advance. The Court held that the issuance of a venire was not a judicial, but a ministerial act; that the offense with which Horn was charged was criminal, and hence under the law Horn was not obliged to pay the jury fees.

JUROR—INCOMPETENT IF HE HAS STRONG PREJUDICE AGAINST SALOONS.—

A juror who states that his prejudice is strong against saloons, or that, in his opinion, to engage in the sale of liquor is an evidence of immorality, is incompetent to serve in proceedings to compel the granting of a license, even though he may also be of the opinion that he could lay his prejudice aside, and give a verdict according to the law and the evidence.

Fletcher vs. Crist (Ind.), 38 N. E. Rep. 172.

JUROR—NOT DISQUALIFIED BY TEMPERANCE SENTIMENT.—

A man's temperance sentiment does not disqualify him as a juror to sit on a case trying a man for the violation of the prohibitory law of North Dakota.

Tomlinson vs. State (N. Dak.), Sup. Ct. Decision.

CHAPTER XXI.

SCREENS.

SCREENS—LAW NOT IN CONFLICT WITH U. S. LAW.—

Under act of March 11, 1895, section 10, which provides that all the provisions of the act to regulate the sale of liquor shall apply to persons whether prosecuting business under the laws of Indiana or under the laws of the United States, a person is indictable for violation of such act, although licensed under the laws of the United States.

State vs. Mathis (Ind.), 48 N. E. Rep. 645.

SCREEN ORDINANCE—INVALID.—

Under Rev. St. 1881, § 3333, empowering towns to license, regulate, or restrain the sale of intoxicating liquors, a town cannot pass a penal ordinance requiring the removal of all screens and other obstructions to the view of the interior of saloons.

Steffy vs. Town of Monroe City, Indiana, 35 N. E. Rep. 121.

SCREENS—IN INDIANA.—

Under act of March 11, 1895, section 10, which provides that all the provisions of the act to regulate the sale of liquor shall apply to persons whether prosecuting business under the laws of Indiana or under the laws of the United

States, a person is indictable for violation of such act, although licensed under the laws of the United States.

State vs. Mathis (Ind.), 48 N. E. Rep. 645.

SCREEN LAW OF IOWA REFERS ALSO TO WHOLESALERS WHO GIVE AWAY LIQUORS BY THE GLASS.—

Acts 25th Gen. Assem., ch. 62, § 17, subd. 3, declaring that the bar where liquors are furnished shall be in plain view from the street, unobstructed by screens, blinds, etc., applies not only to retailers, but to wholesale dealers who give away liquors by the glass to be drank on the premises.

Ritchie vs. Salesky (Iowa), 67 N. W. Rep. 399.

SCREEN LAW INCLUDES HOTEL OFFICE USED AS A BARROOM.—

The law providing that during the time places where liquor is sold, or kept for sale, must be closed, all curtains, screens, etc., obstructing the view of the interior of the barroom, shall be removed, includes a barroom used also as a hotel office.

People vs. Carrel (Mich.), 76 N. W. 118.

SCREEN LAW APPLIED TO "OPEN HOUSE" IN TEXAS.—

It is provided by the laws of Texas that an "open house is one in which no screen or other device is used or placed, either inside or outside of such house or place of business, for the purpose of or that will obstruct the view through the open door or place of entrance into any such house or place of business where intoxicating liquors are sold in quantities less than a quart," it is a question of fact and not opinion as to whether a screen placed in the front part of a saloon obstructs the view into the room where the liquors are sold and drunk, and the jury are to decide the question.

Mertzbacher vs. State (Ct. Crim. App. Tex.), 36 S. W. Rep. 308.

CHAPTER XXII.

BONDS.

BONDS—ARE PENAL IN MINNESOTA.—

Bonds given by persons in behalf of saloonkeepers, as required under the city of St. Paul ordinances, are penal and not indemnity bonds, and the bondsmen are liable to the city for the full face of the bonds should events prove the bad character of the place and the failure of the owner to make of it a resort of good repute.

An action was brought by the city against S. Olsen's bondsmen for the recovery of $2,000, the full liability under their bonds. Olsen had been found guilty of keeping his place open for business on Sunday and fined $50 and costs. His attorney entered a demurrer to the complaint.

Judge Simpson of the district court overruled the demurrer and declared that such bonds are penal bonds on their face and that they are collectible by the city as such. The bond guarantees the good character of the place, the Court holds, and if the owner fails to make it such, a cause of action lies against the bondsmen by the city.

DEALER'S BOND—ACTION TO RECOVER NOT ABROGATED BY REPEAL OF LAW UNDER WHICH IT WAS EXECUTED.—

The right to recover the amount of a liquor dealer's bond is vested upon a violation of it, and the bond is not rendered inoperative so as to require the dismissal of a pending action thereon by the abrogation of the law under which is was executed.

State vs. Williams, Court of Civil Appeals of Texas, 30 S. W. Rep. 477.

LIQUOR DEALER'S BOND—MUST BE STRICTLY CONSTRUED.—

A liquor dealer's bond, providing for a penalty in case the liquor dealer permits any game prohibited by the laws of the state to be conducted on the premises must be

strictly construed; and the state cannot maintain any action thereon for the penalty when the bond is made payable to the county judge, instead of to the state, as required by act March 29, 1887.

State vs. Vinson (Tex.), 23 S. W. Rep. 807.

CHAPTER XXIII.

CORPORATIONS.

TAXING FOREIGN CORPORATIONS.—

Each state may impose such conditions in the way of taxes, etc., upon foreign corporations or corporations formed under laws of another state seeking to do business in their jurisdiction as they may deem expedient.

People vs. Roberts, 19 U. S. S. C. Rep. 58, 1898.

CORPORATIONS—ONE STATE MAY EXCLUDE CORPORATION OF ANOTHER STATE.—

In Paul vs. Virginia, 8 Wall. 168, the Supreme Court of the United States decided that a state might exclude a corporation of another state from its jurisdiction, and that corporations are not within the clause of the constitution which declares "that the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states" (Art. 4, s. 2). This, however, was not the case of a corporation engaged in interstate commerce, and the power of expulsion would seem not to include such.

Paul vs. Virginia, 8 Wall. 168.

CORPORATION LICENSE.—

A question affecting liquor interests was decided by Judge Smith, of Philadelphia, in the appeal of the Schoenhofen Brewing Company from the judgment of the Quarter

Sessions Court of Allegheny County. In this case the court below refused to grant the appellant a license, "for the reason that the applicant is a foreign corporation." The application set forth that "the petitioner is a citizen of the United States" and "a corporation organized under the laws of Illinois for the purpose of the manufacture and sale of beer of its own make, and has its general office in Chicago, and is registered as a foreign corporation under the laws of the state of Pennsylvania."

Judge Smith holds that it was not the intent of the act of June 9, 1891, to license foreign corporations to engage in the sale of liquors in Pennsylvania, and, further, that the registering of the appellant as a foreign corporation does not give it the status of a domestic corporation. Concluding he says: "However, if the views here expressed were not conclusive of the question involved, we are all of the opinion that there is no abuse of judicial discretion disclosed in the action of the License Court. The decree is affirmed."

CORPORATION—LIABLE FOR NOTES SIGNED BY ITS OFFICERS.—

Where a note is signed by an individual maker, with the word "president" following the signature, the obligation generally is that of the person signing, the title being merely descriptive, but when it is apparent, from the manner of the signature or from the body of the instrument or from the use of the corporate seal, that it was the intention of contracting parties that the note should bind the corporation alone, then the person signing will not be liable.

Swartz vs. Cohen, App. Ct., Indiana, January, 1895.

CORPORATIONS—CONTRACTS WITH CORPORATIONS NOT INVALIDATED BY FAILURE TO COMPLY WITH STATE LAW.—

Contracts of a foreign corporation doing business in Colorado are not invalidated, and its capacity to sue thereon is not affected, by failure to comply with Gen. St., §§ 261, 262, requiring such a corporation to file a copy of its charter and of the law under which it was organized with the secretary

of state, and providing that a failure to do so shall render the officers and stockholders individually liable on its contracts.

Helvetia Swiss Fire Ins. Co. vs. Edward P. Allis Co. (Colo.), 53 Pac. Rep. 242.

CORPORATIONS—CERTIFICATE TO DO BUSINESS.—

Under Laws N. Y. 1892, ch. 687, § 15, providing that "no foreign stock corporation doing business in the state without such certificate [of authority to do business] shall maintain any action in this state upon any contract made by it in this state until it shall have procured such certificate," the remedy is merely suspended until such time as the certificate is procured.

Simplex Dairy Co. vs. Cole, U. S. C. C., S. D. (N. Y.), 86 Fed. Rep. 739.

CORPORATIONS—DOMICILE—PRINCIPAL OFFICE.—

Where the place of the chief office of a corporation is not designated by its charter, vote of its stockholders, or resolution of its directors, it is where its stockholders and directors usually meet, where it elects its officers, and conducts its financial operations.

Frick Co. vs. Norfolk & O. V. R. Co., U. S. C. C. of App., Fourth Circuit, 86 Fed. Rep. 725.

CHAPTER XXIV.

AGENTS AND BROKERS.

NON-LIABILITY OF PRINCIPAL FOR ACTS OF AGENT EXCEEDING HIS AUTHORITY.—

A special agent is one who has authority to perform one or more special acts with particular instructions, or within restrictions necessarily implied from the act to be done. When a special agent exceeds his authority and his

act is not ratified by the principal, such act is not binding upon the principal. A party dealing with a special agent is required to know the extent of the agent's authority, and the burden is on the person dealing with such agent outside the legitimate scope of the agency to show affirmatively the permission of, or ratification by, the principal.

Davis et al. vs. Talbot, Sup. Ct., Indiana, 36 N. E. Rep. 1098.

BROKERS—AGENCY—COMMISSION.—

Where a broker, acting merely as middleman to find a purchaser for property at a fixed price, at a certain commission, and having nothing to do with the contract for sale, which is left entirely with the parties, brings a vendor and vendee together, he may recover compensation.

McKenzie vs. Lego (Wis.), 74 N. W. Rep. 249.

PRINCIPAL AND AGENT—COMMISSIONS FOR SELLING.—

Where a contract for the payment of commission to a selling agent provides that no commission is to be allowed or paid "on sale of goods where foreclosure proceedings at any time may become necessary," the agent is not entitled to commissions on the proceeds of a foreclosure sale, but only on payments made before the foreclosure proceedings took place.

Huber vs. Manufacturing Co. vs. Watson (Ky.), 42 S. W. Rep. 110.

BROKER'S RIGHT TO COMMISSIONS.—

If a broker employed to effect a sale finds a purchaser ready and willing to enter into a valid contract for the purchase upon the terms fixed by the principal, and then brings his principal and the purchaser together, he is not deprived of the right to commissions by the principal negotiating the trade himself. But the fact that the owner has employed a broker to sell his property does not deprive him of the right to effect the trade himself, and if he does so without the assistance or agency of the broker he is not liable to the latter for a commission.

But if broker fails to bring principal and purchaser to

an agreement by his efforts he is not entitled to commission, though the sale is afterward made to the same purchaser through principal's own efforts.

Tamplet vs. Saffell (Ky.), 1893.

CHAPTER XXV.

MISCELLANEOUS.

CRUEL AND UNUSUAL PUNISHMENT.—

John O'Neill of Rutland, Vt., plead guilty in County Court to 307 convictions for a second offense of selling liquor. The County Court sentenced him to two months in the house of correction and to pay a fine of $6,150 and costs. He appealed to the State Supreme Court, which held that the punishment was not cruel and unusual and not unconstitutional and affirmed the sentence of the lower court.

POWER OF PARTNER IN BUSINESS.—

The following decision on partnership, Mattingly vs. Moore, from Nelson County, Ky., was rendered in the Kentucky Court of Appeals. Opinion of the Court, by Judge Lewis, reversing the decision of Nelson County Circuit Court, held:

First—Where it was the duty of one of two partners in the business of distilling whisky to "look after the financial management of the distillery and of selling the whisky," and he from time to time deducted 10 per cent from the face value of notes given by purchasers of whisky in consideration of cash payments when the same notes could have been discounted in bank at 7 per cent, he is not upon a settlement of the partnership liable for the difference. He had the right to adopt either mode of obtaining ready money for partnership purposes, and although as it turned out a loss

was sustained on account of the particular mode adopted he cannot be held liable unless he acted in bad faith. And he also had right and discretion to pay a reasonable compensation to brokers if thereby in his opinion he was enabled to make more advantageous and ready sale of whisky.

Second—The partner whose business it was to manage "the running of the distillery" was not entitled under the contract of partnership to a salary for his services.

DISTILLING SLOP—CONTRACT LIABLE FOR SHUTTING DOWN.—

Where a distilling company contracted to furnish slop during a given term for the fattening of a lot of cattle, but shut down before the term was half over, and at a time when other slop could not be obtained, and when the cattle could not profitably be fattened on other food, it was liable in damages for the breach, and the additional fat that might have been put on them in the time allowed by the contract, and the increase in their value by being then fat, were proper elements to be considered in making up a verdict.

Newmarket Company vs. Embry et al. (Ky.), Court of Appeals, 1899.

AIDING ANOTHER TO SELL.—

Defendant may be convicted of keeping intoxicants with intent to sell the same unlawfully, on proof of having aided and abetted another in so doing, since defendant is chargeable as a principal for aiding and abetting in the commission of a misdemeanor.

Commonwealth vs. Ahearn (Mass.), 35 N. E. Rep. 853.

BUYING FOR FRIEND IS SALE.—

In a prosecution for sale of liquors a witness testified that he sent for whisky by defendant; that he told him to bring him some liquor; that he forgot how much money he gave him, but defendant brought him a quart of whisky and that he paid him nothing for bringing it: Held, that the evidence showed a sale by defendant.

State vs. Smith (N. C.), 28 S. E. Rep. 449.

BUYING FOR FRIEND IS NOT SALE.—

One who buys whisky for a friend, with money furnished by the latter, is not guilty of selling intoxicating liquor, if he is not personally interested in the sale, nor acting as the seller's agent.

Hood vs. State (Tex.), 34 S. W. Rep. 935.

SLOT MACHINE—NOT NECESSARILY GAMBLING DEVICE.—

Judge Morris, of the Common Pleas Court, Toledo, O., handed down a decision in August, 1898, affecting the status of slot machines. He holds that slot machines are not necessarily gambling devices, and that a city ordinance which classes them as such is repugnant to the statutes bearing on such contrivances.

PEDDLER NEED NOT PAY LICENSE.—

The Supreme Court of Illinois has rendered a decision in the case of the village of Cerro Gordo against J. B. Rawlings, who was engaged in selling groceries for Loverin & Co., of Chicago. Mr. Rawlings took orders for groceries and had them sent to customers, collect on delivery. The village trustees had Rawlings arrested and fined $10 and costs for selling without a license. The case went through all the courts up to the Supreme Court, which has just decided that a person peddling or selling books, groceries or other articles in a town or village, without a license as a peddler or salesman, is not punishable, and the court declares the ordinance requiring such dealers to take out a license to be invalid and void.

PEDDLER—AGENT SELLING FROM SAMPLE IS NOT.—

Villages cannot impose peddlers' licenses upon agents who merely carry a case containing samples of sugar, tea, coffee, etc., for which they take orders to be filled by their principal, residing in other places, and expressed to the persons giving such orders. This mode of doing business does not constitute the agent a "peddler" within the meaning of village ordinances. This ruling applies to any mer-

chandise for which persons may "canvass" or "take orders." The same decision had already been made in Emmons vs. City of Lewistown, 132 Ill. 380.

Village of Cerro Gordo vs. Rawlings, 135 Ill. 37.

SALOONKEEPER—NOT RESPONSIBLE FOR HORSE AND BUGGY.—

The keeper of a saloon or roadhouse is not an innkeeper in the sense which would make him responsible for the safety of a horse and buggy which had been hitched in front of his place by one of his customers.

Tabe vs. Myers (Ohio), decision.

SALOONKEEPER'S RIGHT TO EXPEL FROM ROOM.—

In a trial for assault with intent to kill, it was not an error to refuse to charge that "a saloon is a public place, in which all persons that so desire may go, and no one has a right to expel another therefrom by force and violence," as the proprietor may lawfully expel one guilty of gross misconduct, and may use such force as is necessary to accomplish such result.

Burrell vs. State, Indiana.

CIVIL RIGHTS—NEGROES MAY BE REFUSED DRINKS IN SALOONS IN MINNESOTA.—

The words "other places of amusement or entertainment" in the laws of Minnesota are held not to apply to saloons, and that a negro may lawfully be refused a drink in a saloon in that jurisdiction.

Rhones vs. Loomis, Sup. Ct., Minnesota, 1898.

SALES TO HABITUAL DRUNKARDS.—

Rev. St., art. 2473, of the title on "Guardian and Ward," defining an "habitual drunkard" as "one whose mind has become so impaired by the use of intoxicating liquors or drugs that he is incapable of taking care of himself or property," does not apply to the meaning of the term as used in Sayles' Ann. St., art. 3226*a*, § 4, providing for the execution of a bond by retail liquor dealers, conditioned that they will not sell to habitual drunkards.

Campbell vs. Jones (Tex.), 21 S. W. Rep. 723.

SALE BY OFFICER UNDER JUDGMENT.—

A right of property in spirituous and malt liquors exists under the law in all the counties of this state, and this property is subject to a judgment against the owner in like manner and to the same extent as other property.

Fears vs. State (Ga.), 29 S. E. Rep. 463.

INFORMATION—UNLAWFUL SALE—RECOGNIZANCE BY DEFENDANT WAIVES OBJECTIONS TO WARRANT AND ARREST.—

An information charging the unlawful sale of intoxicating liquors, verified by the county attorney upon information and belief, is sufficient for all purposes except to procure the issuance of a warrant and the arrest of the defendants; and where the defendant gives a recognizance to secure his future appearance, and subsequently pleads to the charge, without questioning the sufficiency of the verification, he waives all objections to the warrant and arrest.

State vs. Mosell (Kan.), 30 Pac. Rep. 189.

NUISANCE—SUFFICIENCY OF EVIDENCE.—

On a prosecution for keeping a liquor nuisance, there was evidence tending to show that there was a barrel of ale on tap, and another untapped, in a shed near defendant's grocery shop, and accessible therefrom; that persons were seen going in that direction as if for a drink, accompanied by defendant; and that others were seen carrying something away in pails and cans somewhere near the shed.

Held, that the evidence was sufficient to convict.

Commonwealth vs. Kelly, Sup. Ct. (Mass.)

BEVERAGE OR MEDICINE.—

A medical preparation capable of being used as a beverage, and which contains such a percentage of alcohol as that if drunk to excess will produce intoxication, is within the meaning of the law of Georgia prohibiting the sale of intoxicating liquors without taking out a specified license; and this is true, even though the preparation may contain other ingredients which possess useful medicinal properties.

The intention of the maker or the purpose of the purchaser does not change the effect of the law.

Chapman vs. State, Sup. Ct. (Ga.), 27 S. E. Rep., 789.

BEVERAGE OR MEDICINE—WHAT CONSTITUTES TEST.—

"If the compound or preparation be such that the distinctive character and effect of intoxicating liquor are gone, and its use as an intoxicating beverage is practically impossible by reason of the other ingredients, it is not within the statute. The mere presence of the alcohol does not bring the article within the prohibition. The influence of the alcohol may be counteracted by the other elements, and the compound be strictly and fairly only a medicine. On the other hand, if the intoxicating liquor remain as a distinctive force in the compound, and such compound is reasonably liable to be used as an intoxicating beverage, it is within the statute, and this, though it contain many other ingredients of an independent and beneficial force in counteracting disease or strengthening the system." The doctrine of this decision and the justice of the test which it proposes are amply supported by the other authorities, both earlier and later.

Intox. Liq. Cases, 25 Kan. 751.

ALCOHOL—NOT VINOUS OR SPIRITUOUS LIQUOR.—

Alcohol is not "vinous or spirituous liquors," within the meaning of Act February 22, 1842, and the amendments thereto prior to 1886, relating to licensing the sale of vinous and spirituous liquors; and an indictment charging the sale of alcohol in violation of such statutes charges no offense.

Lemly vs. State (Miss.), 12 South. Rep. 22.

PHYSICIAN—PRESCRIPTION.—

Under Code, ch. 32, § 7, if a physician gives a prescription to enable one to obtain liquor from a druggist as medicine, either stating that it is, or that he believes it is, absolutely necessary as a medicine, and not as a beverage, when he either knows, or believes, or has reason to believe it is

not so necessary, or when he does not know it to be so necessary, he violates said statute, and is guilty of the offense it creates. The physician must act in entire good faith. It is his duty to examine and ascertain whether the liquor is absolutely necessary as a medicine.

State vs. Berkeley (W. Va.), 23 S. E. Rep. 608.

RESTRAINT OF TRADE—DISTILLERIES MONOPOLY— NO CRIME CHARGED WHEN THERE IS NO AVERMENT THAT VENDORS OF DISTILLERIES OBLIGATED THEMSELVES NOT TO COMPETE.—

An indictment under the act of July 2, 1890, relating to monopolies, averred that defendants, in pursuance of a combination to restrain trade in distillery products between the states and monopolize the traffic therein, acquired by lease or purchase, prior to the passage of the act, some seventy distilleries, producing three-quarters of the distillery products of the United States, and that they continued to operate the same after the passage of the law, and by certain described means sold the product at increased prices. Held, that no crime was charged in respect to the purchase or continued operation of the distilleries, since there was no averment that defendants obligated the vendors of the distilleries not to build others, or to withhold their capital or experience from the business.

In re Corning, U. S. D. C. (Ohio), 51 Fed. Rep. 205.

OHIO PURE FOOD LAW VALID.—

Three test cases were decided by the Supreme Court of the state of Ohio, in all of which the pure food law was sustained:

The Court held: (1) One who sells impure and adulterated liquor is subject to fine, although at the time of the sale he is the agent of a principal who resides without the state.

(2) The manager of a mercantile corporation is subject to a fine under the provisions of the "act to provide against the adulteration of food and drugs" when the adulterated

article is sold or offered for sale by an agent of such corporation acting within the scope of his authority, and the offense is triable in the county in which such article is sold or offered for sale by such agent.

OHIO PURE FOOD LAW CONSTRUED.—

In the case of the state against Joseph C. Hutchinson, the Supreme Court of Ohio held that whisky is recognized by that name in the pharmacopœia, and is a drug within the meaning of the pure food and drug statute; also, that the sale of adulterated whisky even as a beverage is an offense against the state pure food law.

Afterward, Thomas Ward of Newark was arrested and fined for selling whisky under proof and artificially colored. The case was appealed to the Supreme Court to endeavor to secure a reversal of the decision in the Hutchinson case, but the court has reaffirmed its former decision.

State vs. Hutchinson (Ohio), Sup. Ct., 1897.

MAY RECOVER FIRE INSURANCE THOUGH HAVING NO LICENSE.—

The fact of insured not having a license to sell liquor does not, *prima facie*, affect his right to recover on a policy covering saloon fixtures.

Manchester Fire Assur. Co. vs. Feibelman, (Ala.), 23 So. R. 759.

LIFE INSURANCE—RIGHT OF WOODMEN TO EXCLUDE LIQUOR DEALERS.—

The Supreme Court of Minnesota has affirmed the decision of the Circuit Court in the case of Loeffler against the Modern Woodmen of America. The decision upholds the right of the Order to exclude certain classes, including wholesale liquor dealers. Loeffler joined the Woodmen some time ago and afterward became connected with a wholesale liquor firm. After paying assessments for three years he was denied the privilege of the Order and brought suit, with the above result.

TAXATION—WHISKY IN BOND.—

The Kentucky Court of Appeals held, in the case of Wathen et al. vs. Young, that whisky in bond cannot escape its liability to taxation, under the authority of an act passed by the legislature to enable a county to fund its indebtedness, merely because the tax (the first lien upon the whisky being to the United States Government for taxes) happened to be paid subsequent to the liquidation of the county's indebtedness, though the whisky was in existence during the period of liquidation and liable for its just proportion of the special tax. The Court said that to hold otherwise would, under the eight-year period allowed by the Federal government in which to pay its tax, often result in whisky in bond escaping its just proportion of a public burden.

DEED—RESTRICTION AS TO USE OF PREMISES.—

A condition in a deed, prohibiting the use of the land for the manufacture or sale of intoxicating liquors, is binding into whosesoever hands the land may thereafter come; and the grantor may enforce a forfeiture for breach of the condition against a purchaser from the grantee, though the condition does not in express terms purport to bind the "heirs and assigns" of the grantee.

Odessa Improvement & Irrigation Co. vs. Dawson (Tex.), 48 S. W. Rep. 576.

DEEDS—COVENANTS IN RESTRAINT OF TRADE.—

An agreement by the vendor not to allow the sale of intoxicating liquors in any building owned by him or afterward conveyed, in the same block, for a period of five years, is not such a restraint of trade as is against public policy.

Anderson vs. Rowland, (Tex.), 44 S. W. Rep. 911.

SALE—CHANGE OF POSSESSION.—

A change in possession of barrels of whisky, as against attaching creditors of the seller, is not accomplished by rolling them apart from the rest of the stock in the seller's store, and marking them with the buyer's brand—the latter hav-

ing then no room for them in his store, but agreeing to remove them in a few days—and the good faith of the parties is immaterial.

Burchinall vs. Weinberger (Colo.), 34 Pac. Rep. 911.

PART II.

WAREHOUSE RECEIPTS

AND

TRADE-MARKS.

CHAPTER I.

WAREHOUSE RECEIPTS.

WAREHOUSE RECEIPTS—LIABILITY OF INDORSER—BUYER CANNOT RECOVER EXCEPT FROM WAREHOUSE.—

William Mida was engaged in the wholesale liquor business at Chicago as a broker and in 1883 sold to Solomon Geissmann warehouse receipts for fifteen barrels of whisky at the time in bonded warehouse in Kentucky. The receipts were issued in the usual form by the Anderson Distillery Company, reciting the receipt of such whisky in their bonded warehouse in Louisville, Ky., and agreeing to deliver the same upon return of the receipts properly indorsed by Mida and payment of the government tax and storage. The sale was made in the usual mode by Mida indorsing and delivering the receipts to Geissmann, who paid for them at the time. Geissmann took the receipts and held them without presenting them at the warehouse or demanding the goods for nearly a year, when the distillery company failed, and it then came to light that the warehouse receipts were duplicates and Geissmann sued Mida for the return of the purchase money he had paid. The Appellate Court decided in Mida's favor, holding:

(1) That the whisky being in the warehouse, Geissmann could have presented his receipts and obtained it at any time before the failure, and having failed to do so cannot recover.

(2) A usage of the whisky trade that in purchasing whisky warehouse receipts the seller is not looked to as the

responsible party, but the warehouse issuing the receipts must be relied on is valid.

(3) In the absence of fraud or express warranty in making sale and transfer of warehouse receipts the purchaser must rely upon the warehouse issuing them, and the person selling is not liable to the purchaser for the whisky.

(4) An indorsement of warehouse receipts by the seller merely transfers the title to the receipts and is not a warranty of the genuineness of the receipts.

Geissmann vs. Mida 17 Ill. App. 207.

LIEN OF VENDOR ON GOODS SOLD IN CASE OF FRAUDULENT PURCHASE.—

The following decision involves the question of "fraudulent purchase of goods, attachments and bona fide purchaser." The plaintiffs were Carstairs, McCall & Co. of Philadelphia and the defendants the Chas. A. Kelly Company, and the appeal was from the Franklin County (Ky.) Circuit Court. Opinion of the Court by Judge Hazelrigg, affirming, as follows:

(1) When one purchases goods with the fraudulent purpose of not paying for them the lien of a creditor who has an attachment levied upon the goods as the property of the purchaser is subordinate to that of the vendor.

(2) The fact that the attaching creditors in this case are also the holders, by assignment from the fraudulent purchasers, of the warehouse receipts for the whisky upon which the attachment was levied, does not give them priority over the vendor, as it appears the transfer of the receipts was made prior to the attachment suit and must have been, therefore, merely as collateral security for the antecedent debt, as otherwise the attaching creditors would have been the owners of the whisky by virtue of their ownership of the receipts and there would have been no occasion for the attachment.

(3) In order that one may make good his plea that he is a bona fide purchaser he must show an actual payment before notice, or a change of his legal position for the worse.

It is not sufficient that he has taken the property in controversy as security for an antecedent debt.

(4) Even though there may have been an absolute transfer of the receipts after the attachment proceeding, yet as the lower court found that they were taken with notice of the infirmity of the title of the fraudulent assignor the judgment giving the vendor the superior right must be affirmed.

PRIVATE WAREHOUSE RECEIPTS ARE NEGOTIABLE.—

Collins & Co. of Louisville sold on May 26, 1890, to Dickinson & Co. fifty barrels of whisky, for which they issued their own warehouse receipts as dealers on goods stored in Bardstown. These receipts were transferred by Dickinson & Co. to L. E. Rosenheim of New York. Dickinson & Co. at the time they purchased the goods were hopelessly insolvent and never intended to pay for them and never did. Collins & Co. refused to deliver the goods, and Chancellor Edwards of Louisville, in rendering judgment against them, decided:

That warehouse receipts are negotiable and placed upon the footing of bills of exchange, and defendants were bound by the statements they made in their receipts.

HOW FAR IS A WAREHOUSE RECEIPT NEGOTIABLE?—

On January 6, 1886, Judge Barr decided a case involving the above question, at Frankfort, Ky., in the United States Circuit Court. The facts were as follows:

In June, 1882, Richardson & Co. of St. Louis purchased from Montgomery & Co. fifteen barrels May, '80, Hermitage whisky, in bond, at Frankfort, Ky., obtaining a warehouse receipt therefor indorsed in blank by Montgomery & Co. Some months later this warehouse receipt was stolen from the possession of Richardson & Co. and sold to Fechheimer Bros. of Detroit, who were innocent purchasers of the same for value.

The warehouse receipt was not indorsed by Richardson & Co., and there was nothing on the paper to indicate that the same had been in their possession, or had been owned

by them. In 1883, when the time came to pay the tax and take the whisky out of bond, the above facts regarding the theft and sale of the warehouse receipt were brought to the knowledge of Richardson & Co. for the first time. Richardson & Co. instituted a suit by replevin in the Federal Court at Frankfort against Fechheimer Bros., who in the meantime had paid the tax and placed the whisky in a free warehouse in Frankfort.

Richardson & Co. claimed that the warehouse receipt was not negotiable, to the extent of making title through a thief, to an innocent holder for value. The question of negligence on the part of Richardson & Co. was submitted to a jury who found in their favor. Judge Barr held the law to be that Richardson & Co. did not lose their title to the whisky and judgment was rendered in their favor.

PRIORITY OF WAREHOUSE RECEIPTS.—

The firm of J. G. Mattingly & Sons, distillers, was composed of J. G., P. J. and L. D. Mattingly. On February 23, 1892, A. R. Sutton became a member of the firm under a partnership agreement, by virtue of which Sutton became the financial manager of the firm, and procured all the money needed for carrying on the business. As whisky was manufactured warehouse receipts therefor were placed in his hands, and were by him sold or pledged as security for notes executed for money borrowed.

For a time after Sutton became a member of the firm, the receipts issued were printed on yellow paper, and it was determined to have new receipts printed on green paper, to be used in future transactions, and that the yellow receipts outstanding should be taken up and green ones substituted therefor.

On December 7 Sutton executed a note to the German Security Bank for $2,000, due December 29, and pledged as collateral security yellow warehouse receipts for 250 barrels. On December 13 Sutton executed a note to Leon Block for $2,500 at four months, and pledged as collateral

security green warehouse receipts for the same 250 barrels, bearing the same serial numbers as those covered by the yellow receipts then held by the German Security Bank. On December 29 Sutton paid the note at the German Security Bank by a check on the Louisville Banking Company, took up only 200 of the yellow receipts held by the bank and left with the bank the receipts covering the remaining fifty barrels as general collateral. On the same day he drew a draft on Oliver & O'Bryan of Kansas City for about $2,700, payable in four months, and discounted it at the Louisville Banking Company, depositing the yellow receipts obtained from the German Security Bank as collateral, and the Louisville Banking Company paid Sutton's check to the German Security Bank with this money. Oliver & O'Bryan accepted the draft for Sutton's accommodation.

Sutton failed to pay these notes and on enforcing their liens the German Security Bank became the owner of the yellow receipts for fifty barrels, Oliver & O'Bryan became the owner of the yellow receipts for 200 barrels, and Leon Block the owner of green receipts covering the same 250 barrels covered by the yellow receipts.

The Kentucky Court of Appeals decided:

(1) That the yellow receipts for 50 barrels held by the German Security Bank were valid and prior to the green receipt for the same goods.

(2) That the yellow receipts for 200 barrels taken up by Sutton after the issuance of the green receipts, coming into the hands of Sutton for the firm that issued them, ceased to be outstanding receipts, and could only be given out again as junior and subject to the green receipts previously issued.

(3) The statute prohibits, under penalty, the warehouseman from issuing any receipt for goods while any former receipt for any such goods shall be outstanding and uncanceled, but if issued they are not thereby rendered void, and whenever the prior receipts come again into the hands of the warehouseman issuing them the later receipts become valid and the first ones issued become invalid.

WAREHOUSE RECEIPTS—INNOCENT PURCHASER NOT BOUND BY AGREEMENTS OF WHICH HE HAS NO KNOWLEDGE.—

A agreed with warehouseman that certain whisky, for which the warehouseman gave him a receipt, should remain in the warehouse until the warehouseman was repaid the money advanced by him to pay the revenue tax thereon. A sold the receipts to B under the agreement that the whisky should remain in the warehouse until the purchase price was paid, and B assented to the previous agreement with the warehouseman also. B then sold the receipts to C, who had no knowledge of either of said agreements. The warehouseman was instructed by A to hold the whisky until such amounts were paid. On suit by C for the whisky the Court held that he was not affected by these agreements, of which he had no knowledge.

Bank vs. Waterhouse (Conn.), 38 Atl. Rep. 904.

VALIDITY OF DISTILLER'S WAREHOUSE RECEIPTS.—

In the Kentucky Court of Appeals, December 15, 1898, Judge Guffy handed down the following decision:

It is an appeal from the chancery division of the Jefferson Circuit Court in the case of "The Bell & Coggleshall Company, etc., appellants, vs. The Kentucky Glass Works Company, appellees."

On April 27, 1887, the Kentucky Glass Works Company made an assignment to T. W. Spindle for the benefit of its creditors. The Kentucky National Bank held a mortgage against the company for $48,600, executed by the company and President E. Bull and Vice-president R. F. Bull, who became personally responsible for the obligation, also. In reviewing the case, Judge Guffy says: "It further appears from the answer of the Kentucky National Bank, that it had a very large indebtedness against the Kentucky Glass Works Company, in addition to the mortgage debt. It also claimed a lien upon certain personal property or the proceeds thereof under and by virtue of several so-called warehouse receipts. It further appears that the assignee, Spindle, recognized the mortgage lien and the warehouse liens

upon the property as being valid, and proceeded to make payments to the said bank in accordance therewith. It is the contention of the appellants that the mortgage was fraudulent and its execution unauthorized by law, and that the debt attempted to be secured thereby was in excess of the amount which the corporation could legally incur, and that the warehouse receipts were fraudulent and void."

The property covered by the warehouse receipts is said to be some finished product warehoused on the company's premises by an employe or officer of the company.

Referring to the warehouse receipts direct, Judge Guffy continues: "So far as the so-called warehouse receipts are concerned, an attempt to secure a lien or preference thereunder was wholly without authority of law. There is no sort of evidence that Ed Bull or the Kentucky Glass Works Company were either engaged in the warehouse business or were warehousemen, and hence an attempt to issue warehouse receipts was without authority of law and did not confer any legal right or claim or lien upon the property mentioned therein. It was said by this court in Mechanics' Trust Company, etc., vs. Dandridge, etc., 18 K. L. Rep., 629 (warehouse receipts then being under consideration, and the statute having been referred to): 'The statute supra evidently refers to only such persons as in fact keep a warehouse to store goods in and are engaged in that business. It cannot be that it was the intention of the Legislature to provide that any and all persons might become legal warehousemen by simply receiving one particular piece of property in store and issuing a receipt therefor.'"

The final summing up of the decision is as follows: "The judgments appealed from are therefore reversed and cause remanded with directions to adjudge the mortgage executed to the said Kentucky National Bank and the warehouse receipts given to each and all null and void, and to set aside the order allowing the aforesaid credits to the assignee, Spindle, * * * and for proceedings consistent herewith."

EFFECT OF TRANSFER OF WAREHOUSE RECEIPT.—

The transfer of a warehouse receipt by the owner of the property passes the title to the purchaser as against the creditors of the owner, although the property is not delivered.

Bank of Newport vs. Hirsch, 27, S. W. Rep. 74.

The indorsement and delivery of the warehouse receipt have the same effect in transferring the title as the delivery of the property. The warehouseman becomes the bailee of the holder of the receipt, to whom it is transferred, and ceases to hold for the former owner. This principle has been established in the following decisions: Shepardson vs. Cary, 29 Wis. 34; Harris vs. Bradley, 2 Dill. 284, Fed. Cas. No. 6,116; Puckett vs. Read, 31 Ark. 131; Durr vs. Harvey, 44 Ark. 301; Ferguson vs. Bank, 14 Bush 555.

But it is also true that a warehouse receipt for a part of certain goods stored in bulk passes no title until such goods are separated—set apart— so as to distinguish them from the general mass unless the receipt provides the means of making such separation.

Ferguson vs. Bank, 14 Bush. 555; Trust Co. vs. Trumbull, 23 N. E. 355, 361.

WAREHOUSE RECEIPTS NOT VALID AS AGAINST TAXES DUE FROM DISTILLER.—

The Commissioner of Internal Revenue in quoting the case of the Government vs. J. B. Thompson of Kentucky, holds that "under section 3196, the lien of government is valid against all of the property contained in warehouse for taxes assessed vs. distiller, without regard to the fact that others may claim ownership through purchase, through warehouse receipts or otherwise."

WAREHOUSEMEN—LIEN—NOTICE.—

A warehouse receipt stated that the property was deliverable "on payment of charges," without stating their nature or amount, the spaces for the insertion of the amount of "storage" and "advanced" charges respectively being

left blank: Held, that this was sufficient to put a purchaser of the property upon inquiry as to the amount and character of the charges, and that the warehouseman was not estopped, as against such purchaser, from asserting his lien for "advanced" charges.

Security Bank vs. Minneapolis Cold Storage Co. (Minn.), 56 N. W. Rep. 582.

WAREHOUSEMAN—LIEN—STORAGE.—

A warehouseman who retains goods for a general balance of storage under a single contract is entitled to storage at the same rate after the time of asserting his lien until payment is made, and he cannot be deprived of the same on the theory that the storage from that time on is for his own benefit.

Devereux vs. Fleming, U. S. C. C. (S. Car.), 53 Fed. Rep. 401.

WAREHOUSEMAN'S LIABILITY FOR GOODS DESTROYED BY FIRE.—

(1) A carrier is not liable as such for goods placed in its warehouse after transportation, although the consignee may have had no opportunity to remove them, because told they were not there, but its liability is that only of a warehouseman.

(2) Where goods are placed by a carrier in its warehouse, and the consignee inquires for them a number of times, but is told each time that they are not there, the carrier is liable as a warehouseman for their destruction by fire, notwithstanding the fire may have occurred without any negligence on its part, as the failure to deliver was the proximate cause.

Kelly vs. E. T., U. & G. Ry. Co., Tennessee.

INDIANA LAW AGAINST PRIVATE WAREHOUSE RECEIPTS.—

The following law was passed by the Indiana General Assembly of 1897, and strictly prohibits all issue, sale, pledge or transfer of private warehouse receipts:

Section 1. Be it enacted by the General Assembly of the State of Indiana, That it shall be unlawful for any corporation, firm or person, their agents or employes, to issue, sell, pledge, as-

sign or transfer in this state any receipt, certificate or other written instrument purporting to be a warehouse receipt, or in the similitude of a warehouse receipt, or designed to be understood as a warehouse receipt, for goods, wares or merchandise stored or deposited, or claimed to be stored or deposited, in any warehouse, public or private, in any other state, unless such receipt, certificate or other written instrument shall have been issued by the warehouseman operating such warehouse.

Section 2. It shall be unlawful for any corporation, firm or person, their agents or employes, to issue, sell, pledge, assign or transfer in this state any receipt, certificate or other written instrument for goods, wares or merchandise claimed to be stored or deposited in any warehouse, public or private, in any other state, knowing that there is no such warehouse located at the place named in such receipt, certificate or other written instrument; or if there be a warehouse at such place, knowing that there are no goods, wares or merchandise stored or deposited therein as specified in such report, certificate or other written instrument.

Section 3. It shall be unlawful for any corporation, firm or person, their agents or employes, to issue, sign, sell, pledge, assign or transfer in this state any receipt, certificate or other written instrument evidencing, or purporting to evidence, the sale, pledge, mortgage or bailment of any goods, wares or merchandise stored or deposited, or claimed to be stored or deposited, in any warehouse, public or private, in any other state, unless such receipt, certificate or other written instrument shall plainly designate the number and location of such warehouse, and shall also set forth therein a full, true and complete copy of the receipt issued by the warehouseman operating such warehouse wherein such goods, wares or merchandise are stored or deposited, or are claimed to be stored or deposited. Provided, That the provisions of this section shall not apply to the issue, signing, sale, pledge, assignment or transfer of bona fide warehouse receipt issued by the warehouseman operating public or bonded warehouses in other states, according to the laws of the state wherein such warehouses may be located.

Section 4. Every corporation, firm or person, agent or employe who shall knowingly violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty nor more than one thousand dollars, to which may be added imprisonment in the county jail for any period not exceeding one year.

KENTUCKY WAREHOUSE LAW.—

Section 1. Any person receiving any kind of produce, wares, merchandise, commodity or anything whatever, in

store, or undertaking to receive and care for the same, either with or without compensation, shall be deemed and held to be a warehouseman.

Section 2. He shall give, on demand, a receipt therefor, setting forth the quality, quantity, kind and description thereof.

Section 3. Such receipts shall be negotiable and transferable by indorsement in blank, or special indorsement, the same as bills of exchange.

Section 4. No warehouseman or other person or persons shall issue any receipt or other voucher for any goods, wares, merchandise, produce or other thing enumerated in Section 1 of this article, or for any other commodity or thing, to any person or corporation, unless such goods, wares, merchandise, produce, property, commodity or thing shall have been bona fida received into possession and store by such warehouseman or other person, and shall be in store and under his or their control, care and keeping at the time of issuing such receipt.

Section 5. He shall not issue receipts for property as security for any money loaned, or other indebtedness, unless such property shall at the time belong to him without incumbrance otherwise than as set forth in the receipt, and the property must be actually in store and under the control of such warehouseman at the time.

Section 6. No warehouseman or other person shall issue any receipt or other voucher for any goods, wares, merchandise, produce or other thing enumerated in Section 1 of this article, whilst any former receipt for any such goods, wares, merchandise, produce, commodity, property or thing as aforesaid, or any part thereof, shall be oustanding and uncanceled.

Section 7. No warehouseman or other person shall sell, incumber, ship, transfer or in any manner remove from his immediate control any property receipted for, without the written consent of the holder of the receipt and the production of the receipt.

Section 8. Any person violating this law deemed a cheat

and swindler and is subject to indictment and penalty of fine not exceeding five thousand dollars and imprisonment not exceeding five years, also civil action by person aggrieved for damages.

Section 9. Receipt may be pledged as collateral security or otherwise.

Section 10. Warehouseman shall keep a register with list and description of property stored, name and residence of the owner, time received and amount of charges thereon.

Section 11. May sell property on which charges not paid for twelve months after due, at public auction, after due advertisement and notice for not less than twenty days.

Section 12. From proceeds of sale he shall pay charges and costs of sale and hold the overplus, if any, for the owner for twelve months and then pay it into the state treasury.

CHAPTER II.

TRADE-MARKS.

WHAT CONSTITUTES A TRADE-MARK AND WHAT THE EXCLUSIVE RIGHT TO IT.—

The law respecting the use of trade-marks was summarized and announced to the bar of the Supreme Court of the United States on December 4, 1893, by Justice Jackson. The opinion was read in the case of the appeal of the Columbia Mill Company of Minnesota vs. E. F. Alcorn & Co. from the Circuit Court for the Eastern District of Pennsylvania. The mill company had brought suit to restrain Alcorn & Co. from using the word "Columbia" upon a brand of flour sold by the defendant. On appeal the Supreme Court held:

(1) That to acquire the right to the exclusive use of a name, device or symbol as a trade-mark, it must appear that

it was adopted for the purpose of identifying the origin or ownership of the article to which it was attached, or that such a trade-mark must point distinctively, either by itself or by association, to the origin, manufacture or ownership of the article on which it is stamped. It must be designed as its primary object and purpose to indicate the owner or producer of the commodity, and to distinguish it from like articles manufactured by others.

(2) That if the device, mark or symbol was adopted or placed upon the article for the purpose of identifying its class, grade, style or quality, or for any purpose other than a reference to or indication of its ownership, it cannot be sustained as a valid trade-mark.

(3) That the exclusive right to the use of the mark or device claimed as a trade-mark is founded upon priority of appropriation. Such trade-mark cannot consist of words in common use as designating locality, section or region of country.

Columbia Mill Co. vs. Alcorn, 65 O. G. 916.

TRADE-MARK—A MARK DOES NOT BECOME A TRADE-MARK UNTIL ATTACHED TO A VENDIBLE ARTICLE AND THE ARTICLE PUT ON THE MARKET.—

Where, in a trade-mark interference between a registrant and an applicant, the evidence showed that the applicant had stamped, wrapped and boxed a certain amount of "clover" soap, but did not show that he had put on the market or had sold any soap so marked. Held, that the law as to trade-marks seems to be that a mark does not become a trade-mark until it is put upon a vendible article which, in turn, is put upon the market. This point is fully discussed in Schneider et al. vs. Williams, 44 O. C. 1400, in which it is held that one of the three steps necessary to secure a title in a mark as a trade-mark is that the article be put on the market.

McAndrew vs. Bassett, De Gex, J. & S., 386, and Maxwell vs. Hogg, L. R. 2 Ch. App. Cas. 314, set forth the same doctrine.

TRADE-MARK—PRIORITY—USE—INVENTION.—

The exclusive right to the use of a trade-mark or device rests not on invention, but on such use as makes it point out the origin of the claimant's goods, and must be early enough for that, but absolute priority or invention is not required.

Tetlow vs. Tappan, U. S. C. C., S.D. (N. Y.); 85 Fed. Rep. 774.

TRADE-MARK—OWNERS MUST BE DILIGENT OR LOSE THEIR RIGHTS.—

Emile Saxlehner was the owner of a label and trade-mark on Hungarian bitter water under the name of Hunyadi Janos. From about 1888 to 1897 without protest he permitted many thousand cases of such water to be sold in the United States under the name of "Hunyadi Arpad," "Hunyadi Matyas," "Hunyadi Laazlo," and other similar names and under similar red and blue labels. He then brought an action against the Eisner & Mendelson Company to restrain them from selling similar waters under the names of Hunyadi Matyas and Hunyadi Laazlo.

On this state of facts the United States Court of Appeals, in deciding the case, said:

In view of these facts, of the continued and increasing appropriation by competitors of his label and of his trade-name as a general designation, can a complainant who has for nine years done nothing toward maintaining or even asserting his original rights now be heard to suppress the competition which his supineness has allowed, and, indeed, invited and encouraged to grow up? We think not. The case at bar seems to be one of those exceptional ones referred to in Menendez vs. Holt (128 U. S. 514), where delay or acquiescence has been continued so long and under such circumstances as to defeat the right of possession.

Saxlehner vs. Eisner & Mendelson Co., U. S. Circuit Court of Appeals, 1899.

TRADE-MARK—USE OF FAMILY NAME MUST NOT INTERFERE WITH OTHER'S TRADE NAME.—

James E. Pepper at suit of Labrot & Graham was enjoined from branding or marking his whisky with the words

"Old Oscar Pepper" or the initial letters "O. O. P.," or any modification of said words or letters so as to interfere with the right of Labrot & Graham to identify the product of their distillery by the use of their brand, "Old Oscar Pepper Distillery, Woodford County, Ky."

Afterwards James E. Pepper and his firm in their trade-mark brand and circulars used the words "Old Pepper" whisky, though in brands of entirely different shape and color from that used by Labrot & Graham, also the word "Pepper" with quotation marks. The United States Circuit Court decided:

That the use of the word "Pepper" in quotation marks is not the use of Jas. E. Pepper's family name. The fact that his surname is Pepper gave him no right to use the word Pepper with quotation marks. This would, in the absence of explanation, indicate some other Pepper than Jas. E. Pepper, who used it, and he, in thus using it clearly indicated there was a trade value to be derived from the use of the name Pepper, which is not dependent upon the fact that Jas. E. Pepper & Co. or James E. Pepper is the manufacturer of the whisky thus marked.

The firm of Jas. E. Pepper & Co. and Jas. E. Pepper himself have the right to his own name to designate whiskies made by his firm or by himself, and he infringes upon no right of Labrot & Graham in doing this; neither can they complain if he publishes the fact, if true, that his father and grandfather were celebrated distillers, and he continues to use their method of distillation.

But when he or his firm uses the word "Pepper" with quotation marks, he does not use his own name, but another's in which Labrot & Graham have an interest in by reason of their operation of a distillery known as "Old Oscar Pepper Distillery."

They have also an interest in the word Old when connected with the words "Pepper" whisky and descriptive, not of the age of the whisky but of the kind.

These words are a very important part of the trade-

name which was adjudged to Labrot & Graham, and when *used* as *indicated*, violates, we think, both letter and spirit of the injunction.

Labrot & Graham vs. James E. Pepper. U. S. Circuit Court. 1891.

TRADE-MARK—NAME OF CHIEF INGREDIENT OF AN ARTICLE NOT PROTECTED—RIGHT TO TERM MUST BE EXCLUSIVE.—

In the case of Siegert vs. Abbott the Supreme Court decided:

(1) A word or term which denotes the nature or chief ingredient of an article to which it is applied may be used by any manufacturer or producer of such an article, although the word or term has been previously used by others to designate a like article which they produce.

(2) To constitute a valid trade-mark the designation or term applied to the article must be one which the claimant has the exclusive right to use.

(3) It is apparent on principle and well settled by authority that no one can acquire the exclusive right to use a geographical name or term which denotes the nature of the article to which it is applied. The name "Angostura Bitters," being given by the Seigerts to their mixture, because it was manufactured at the city of Angostura or because its chief ingredient was Angostura bark, gives them no exclusive right to the use of the name Angostura, and others manufacturing bitters of Angostura bark may use the same name if they do not fraudulently try to sell it as the bitters prepared by the Seigerts.

(4) Where the articles are made by different firms, at places widely separate and the evidence is insufficient to show that defendants have simulated plaintiff's goods with the intent to deceive intending purchasers and there is no probability that such purchasers will be deceived by the way in which the defendants have prepared and placed their article on the market, the courts will not interfere.

TRADE-MARK—USE OF INDIVIDUAL NAME CONFLICTING WITH OLDER FIRM.—

One is entitled to sell his product under his own name, either individually or in connection with a partner; but in doing so he must be careful not to do anything calculated to delude the public into the belief that his goods are those of another having the same name; and if the latter has first acquired a reputation for a particular kind of goods, the former may be enjoined from selling like goods except in connection with a clear statement indicating that they are not the goods of the latter.

The court found that the younger Allegretti had intended to create a confusion as to the identity of the chocolate creams manufactured by himself and by the complainant respectively. The Court of Appeals in the United States Circuit, following the English courts, has formulated a convenient rule applicable to cases of this kind, which saves the complainant's rights and works no hardship to an honest defendant (Baker vs. Sanders, 8 Fed. 895). This rule was followed in the case under consideration. The following order was entered:

"Upon filing a bond for $2,000, conditioned upon final success in the suit, and which would seem to be amply sufficient to cover any additional expense to which defendant may be put, complainant may take an injunction *pendente lite* restraining the defendant Kellar from selling the candies of Allegretti & Co. in packages bearing the name 'Allegretti,' unless such name may be accompanied with the statement: 'No connection with the original Allegretti of Chicago,' and be further restrained from using the said name in signs or advertisements unaccompanied with a like statement."

Allegretti Chocolate Cream Co. vs. Keller, U. S. C. C., S. D. (N. Y.), 85 Fed. Rep. 643.

TRADE-MARK—PALE ALE AND BEER LABELS.—

One using, in connection with pale ale, a plain red triangle stamped on a label, cannot enjoin, on the ground of

unfair competition, one who uses in connection with his lager beer a similar red triangle having a large white "Z" thereon, the labels and posters being so utterly unlike that the ordinary purchaser would not be deceived.

Bass, Ratcliff & Gretton vs. Henry Zeltner Brewing Co., 87 Fed. 468.

TRADE-MARKS—LABELS ON PATENTED ARTICLES.—

Distinctive labels on patented articles do not become free to the world on the expiration of the patent.

Centaur Co. vs. Killenberger, 87 Fed. 725.

TRADE-MARK—MUST NOT CONTAIN A FALSE REPRESENTATION.—

The Commissioner of Patents has rendered a decision in the case of an application for the registration of a trade-mark for distilled spirits in which the words "Knights of Labor" and "K. of L. Distillery" appear. The Commissioner states that there is no pretense that the manufacturers of this particular brand of whisky who apply for the trade-mark are Knights of Labor or are engaged in business with them or under their auspices, yet the trade-mark points distinctively to this labor organization, or to the members as a class, as the origin of the ownership of the articles to which it is applied. In other words, this trade-mark is in the nature of a false representation and a deception as to the general public, inducing them to purchase and deal with the articles under the belief that it is the article or manufacture of another or a class of persons from whom they prefer to buy. The Commissioner, therefore, on the ground of the false pretenses of such trade-mark, refuses its registration.

TRADE-MARK—INFRINGEMENT RESTRAINED.—

Independently of any right of complainants to the exclusive use, as a trade-mark, of the name applied by them to their product, the sale by defendants of a deleterious substance, represented by the latter to be in part or in whole the same substance in which complainants are dealing, and

of which they are the sole producers, and which is admittedly of a beneficial character, will be restrained.

City of Carlsbad vs. Tibbetts, U. S. C. C., Minnesota, 51 Fed. Rep. 852.

TRADE-MARK—BUSINESS PROTECTED AGAINST FRAUD WITHOUT.—

A lawful business may be protected against fraud by injunction, although not carried on under monopoly of a valid trade-mark. So, if a person is using something to designate his articles, the exclusive right to use which cannot be claimed as a trade-mark, nevertheless if such person can show to a court of equity that another person is selling an article like his in such a way as to induce the public to believe that it is his, and that he is doing this fraudulently, he may have relief by injuction to prevent such piracy. It is a fraud for one person to palm off his manufactures as those of another person, although he commits fraud by the use of names which are not a subject of trade-mark property.

California Fig Syrup Co. vs. Frederick Stearns & Co., 43 U. S. App. 234, 20 C. C. A. 22, and 73 Fed. 812; Salt Co. vs. Burnap, 43 U. S. App. 243, 20 C. C. A. 27, and 73 Fed. 818.

TRADE-MARK—GEOGRAPHICAL NAME CANNOT BE USED BY MANUFACTURERS AT OTHER PLACES.—

The Minneapolis flour mill men brought an action in United States Circuit Court to restrain H. R. Eagle, wholesale grocer of Chicago, from selling flours branded "Minneapolis Mills," but manufactured in other places. Judge Showalter in October, 1897, in deciding the case, refused the injunction, holding that the complainants had no such property right in the name of the town or place in which their goods were manufactured as to enable them to stop the use of it, even if wrongful, by makers outside of the state. But on appeal the United States Circuit Court of Appeals in April, 1898, overruled the decision of Judge Showalter and granted the injunction. The decision applies to all classes of merchandise and under it whiskies made in other states

apparently cannot be branded Kentucky bourbon or Pennsylvania or Maryland rye, etc., and it applies with equal force to whiskies made in Canada or in Europe.

TRADE-MARK—WRONGFUL USE OF IS EVIDENCE OF AN ILLEGAL ACT.—

A trade-mark, clearly such, when wrongfully used by a third party, is in itself evidence of an illegal act. It is of itself evidence that the party intended to defraud, and to palm off his goods as another's.

Putnam Nail Co. vs. Bennett, 43 Fed. Rep. 800.

TRADE-MARK—FALSE REPRESENTATION IN LABEL GIVES GROUND FOR RELIEF.—

If the letters LL formed an important part of plaintiff's label, and the defendant had used them in such a way and under such circumstances as to amount to a false representation, which enabled it to sell and it did sell its goods as those of plaintiff, and this without plaintiff's consent or acquiescence, then plaintiff might obtain relief on the ground of deceitful representation.

Putnam Nail Co. vs. Bennett, 43 Fed. Rep. 800., Id.

TRADE-MARKS—PENALTY FOR SHIPPING LIQUOR UNDER FALSE LABEL.—

Judge Hawley of the United States District Court for California has decided that any person who ships, transports or removes any spirituous or fermented liquors from one place to another under a counterfeit label is subject to a fine under Section 3449 of United States Revised Statutes, whether such person be a distiller, manufacturer or rectifier of liquors or not.

TRADE-MARK—FALSE USE OF GEOGRAPHICAL NAMES.—

The false use of a geographical name will not be allowed by the Federal Courts, when it is so used to promote unfair competition and to induce the sale of spurious goods.

Collinsplatt vs. Finlayson, U. S. C. C., S. D. (N. Y.), 88 Fed. Rep. 693.

TRADE-MARK—POWERLESSNESS OF PATENT OFFICE.—

In the course of the decision of the United States Commissioner of Patents in the case of Sherwood vs. Horton, he lays down the following important dictum on the power of the Patent Office in regard to trade-marks:

The Patent Office cannot confer the right to a trade-mark upon anyone, nor, on the other hand, can it take away such right, its powers in reference to trade-marks are very limited and entirely different from its powers in reference to the grant of patents.

TRADE-MARKS—INFRINGEMENT—IMITATION.—

Every possible color for capsules having been appropriated by proprietors of the various brands of champagne, and the term "Extra Dry" having been so long and generally used to denote character and quality, the use by defendants of a capsule of the same color as that used by complainants, with the words "Extra Dry" thereon, as used by complainants, though used with fraudulent intent, cannot be enjoined.

Von Mumm vs. Witteman, 85 Fed. 966.

TRADE-MARK—"PALMETTO" AS A TRADE-MARK.—

The celebrated Palmetto trade-mark case was decided by Justice Bradley of the District Supreme Court in favor of the petitioner, who is really Gov. Tillman of South Carolina, who sought to register a trade-mark, in which the device and motto were to be the palmetto, the same to be applied to every package or receptacle containing spirituous liquor to be sold under official sanction in South Carolina. Commissioner Seymour had decided that the trade-mark could not be registered, and the motion for a writ of *mandamus* to compel him to register the trade-mark was argued before Justice Bradley. Justice Bradley has rendered his decision in the form of an alternative writ of *mandamus* against the Commissioner of Patents, commanding him to register the trade-mark as prayed by the petitioner.

TRADE-MARK—RESEMBLANCE.—

Application for the registration of the word "M. V. Monarch" refused on a prior trade-mark "Monarch Distilling Company," used upon the same class of merchandise.

Ex parte Corning & Company, 751.

TRADE-MARK—RIGHT TO USE ONE'S OWN NAME IN TRADE.—

While the right of no one can be denied to employ his name in connection with his business or with articles of his own production, so as to show the business or product to be his, yet he is not allowed to designate his article by his own name in such a way as to cause it to be mistaken for the manufacture or goods of another already on the market under the same or similar name.

Brown Chemical Co. vs. Meyer, 139 U. S. 540; Lawrence Mfg. Co. vs. Tennessee Mfg. Co., 138 U. S. 537.

TRADE-MARK—INTERNATIONAL PROTECTION OF TRADE-MARK.—

In the case of Kerry et al. vs. Toupin, Judge Aldrich, sitting in the United States Court at Boston, rendered a decree granting a perpetual injunction against the defendant on the ground that he had infringed on plaintiff's rights in the trade-name, "Syrup of Red Spruce Gum," under the provisions of the International Convention for the Protection of Industrial Property. The injunction restrains the defendant from dealing in an artificial medicinal preparation under the name of "Syrup of Red Spruce Gum," or any translation thereof. The case is said to be the first finally decided in which the international convention has been construed.

TRADE-MARK—"BUDWEISER" PROTECTED AS A TRADE NAME.

On February 24, 1898, the United States Circuit Court for the Eastern District of New York decided that the Anheuser-Busch Brewing Association was entitled to the use of the word "Budweiser" as a trade-name and that the word must not be used except in connection with the beer of that company.

TRADE-MARK—IMITATION OF LABEL.—

A label on whisky bottles which in size, shape and color is an evident imitation of the label on a well-known brand of whisky, and which differs from it merely in some details of the inscriptions on the label, is a fraud, the use of which will be enjoined.

Hiram Walker & Sons vs. Hochstaedter, 85 Fed. 776.

TRADE-MARK—GEOGRAPHICAL NAME—"WAVERLEY"—REGISTRABLE.—

The word Waverley, while it is used to designate localities, yet it is not "merely a geographical name" in the sense employed by the Supreme Court in Columbia Mill Company vs. Alcorn (65 O. G. 1916), and may be registered.

Ex parte Indiana Bicycle Co., 1654.

TRADE-MARKS AND TRADE NAMES—INFRINGEMENT OF LABELS.—

One using a name or mark, which is free to the public, in connection with a label purposely imitating the label of another, which he has the exclusive right to use, for the purpose of utilizing, by the use of the simulated label, the reputation of such other, will be enjoined from a further use of such label, and held to account for previous damages.

Saxlehner vs. Nielson, U. S. C. C., E. D. (N. Y.), 88 Fed. Rep. 71.

TRADE-MARK—THE WORD "IMPERIAL" CANNOT BE APPROPRIATED.—

In the United States Circuit Court at Chicago Judge Grosscup decided a suit of considerable interest to distillers and brewers. Beadleston & Woerz, a corporation of New York, owned and operated a brewery which they called the Empire Brewery. They designated a high class of their beer as "Imperial Beer." The New York concern brought a bill for injunction against the Cooke Brewing Company. Judge Grosscup announced his decision that it was plain that the Cooke Brewing Company had not resorted to any fraudulent competition; that it did not pretend to the public

that the beer that was being sold under the label of Cooke's Imperial Beer was any other beer than its own. The Court held that the word "imperial" could not be appropriated or monopolized; that it has come to have a well-defined meaning as a term of trade, and imports excellence of quality rather than proprietorship or source of origin.

TRADE-MARK—ASSIGNMENT—BETWEEN PARTNERS.—

The question of the assignability of trade-marks has often come before the courts, and some have held that the mere right to use a name is not assignable (Chadwick vs. Covell, 151 Mass. 190). But it is clearly established that between partners, when one retires from a firm, and, by consent, the old place of business is retained under the old firm name, the good-will carries with it the right to use a trade-mark by the remaining partners as a part of such good-will.

Menedez vs. Holt, 128 U. S. R. 514.

TRADE-MARK—CRITERION OF UNFAIR COMPETITION.—

In a suit to restrain unfair use of a trade-mark, the criterion of unfair competition is whether ordinary purchasers, as distinguished from members of the particular trade, are deceived.

R. Heinisch's Sons Co. vs. Boker, 86 Fed. 765.

TRADE-MARK—EFFECT OF OMISSION IN REGISTRATION.—

The omission from a registered trade-mark of a feature theretofore sometimes used in connection with it is an abandonment of that feature to the public.

Pittsburgh Crushed Steel Co. vs. Diamond Steel Co., 85 Fed. 637.

TRADE-MARK—GEOGRAPHICAL NAME, "GENESEE," CANNOT BE APPROPRIATED AS TRADE-MARK.—

Judge Ricks of the United States Circuit Court for the Northern District of Ohio has decided as follows:

An individual has no right to appropriate a sign or symbol which, from the nature of the fact it is used to signify, others may employ with equal truth, and therefore

have an equal right to employ for the same purpose. The name "Genesee" points only at the place of production, not to the producer, and cannot be exclusively appropriated.

TRADE-MARK—ABANDONMENT EXTINGUISHES RIGHT.—

One who, after using an alleged trade-mark for a short time, abandons it for nearly a quarter of a century, has no right to resume its use after it has been long employed by another, who has built up under it a large and successful business.

Raymond vs. Royal Baking Powder Co., 85 Fed. 231.

FOREIGN TRADE-MARKS.—

Under the statues between this country and France it is necessary for citizens of France to comply with the laws of France in order to be entitled to register a valid trade-mark in the United States.

U. S. Circuit Court for Illinois, 1892.

TRADE-MARK—COMMON APPELLATIVES NOT ENTITLED TO PROTECTION—"CASTORIA."—

In the Castoria case the United States Court of Appeals held:

Everything must have a name. Just as soon as an article is produced or discovered it must be named, and the name thus given becomes the property of the public and is not a valid subject for a trade-mark. Thus the name Castoria is a common appellative, the name first given, and not entitled to trade-mark protection.

FOREIGN INFRINGEMENT OF DOMESTIC TRADE-MARKS.—

Section 11 of the act of Congress of July 24, 1897, provides that no article of imported merchandise which shall copy or simulate the name or trade-mark of any domestic manufacture or manufacturer shall be admitted to entry at any custom house of the United States.

Under this provision any domestic manufacturer may file for record in the Treasury Department facsimiles of his trade-mark or trade name, and customs officers are in-

structed to use due diligence to prevent such infringements. A sufficient number of facsimiles should be forwarded to enable the department to send one copy to each port named in the application and ten copies for the files of the department. The application must state the name and address of the manufacturer and contain a description of the trade-mark and the names of the ports to which the facsimiles should be sent, and must be accompanied with proper proof of ownership.

Treasury Decision, August 3, 1897.

TRADE-MARK—PENALTY FOR INFRINGEMENT.—

The protection afforded by courts of equity against the infringement of trade-marks is not dependent upon any exclusive right to a particular name or to a precise form of words. The right to relief is rather dependent upon the necessity of extending protection against the commission of fraud, and this fraud may consist in the use of a name to which defendant is entitled, if such use be coupled with other circumstances rendering it an infringement of complainant's rights.

High on Injunctions,, Sec. 1069.

TRADE-MARK—THE WORDS "MONOPOLE" OR "DRY MONOPOLE" IN CONNECTION WITH CHAMPAGNE.—

The Supreme Court of Judicature of Great Britain, in the Court of Appeals, decided on May 1, 1891, that Lord Justice Kay was right in ordering the words "Monopole" and "Dry Monopole" to be expunged from the trade-mark register, on the ground that there had not been such uses of the words as to impress on the public mind the idea that they were used by themselves as trade-marks. The defendants had moved to expunge the trade-marks from the register, on the ground that they had never been used alone as trade-marks before the date of the passing of the Trade-Marks Registration Act, 1875, and on the ground that they were not "special and distinctive words" within the meaning of that act. It was admitted that the labels always bore, in

addition to the words "Monopole" and "Dry Monopole," the name "Heidsieck & Co., Rheims," while on the cases and the champagne corks, although the words appeared by themselves, a distinctive trade-mark, consisting respectively of an anchor and a comet, surrounded by the name Heidsieck & Co., was also stamped on the other side of the case or the bottom of the cork. On the appeal of the plaintiffs, the decision of Justice Kay was sustained as stated above.

TRADE-MARKS—IMPROPER USE OF GEOGRAPHICAL NAME.—

The mere use of a geographical name, unaccompanied by any imitation of labels or other indicia, may constitute unfair competition, if it is adopted for the purpose of taking away another's business and good-will.

Anheuser-Busch Brewing Ass'n vs. Fred Miller Brewing Co., 87 Fed. 864.

TRADE-MARK—MARKS OF QUALITY ARE NOT.—

An exclusive right cannot be acquired to the use of words, letters or symbols to indicate merely the quality of the goods to which they are attached, while, if the primary object of the mark be to indicate origin or ownership the mere fact that the article has obtained such a wide sale that it has also become indicative of quality is not of itself sufficient to debar the owner from protection, and make it the common property of the trade; yet, if the device or symbol was not adopted for the purpose of indicating origin, manufacture or ownership, but was placed upon the article to denote class, grade, style or quality, it cannot be upheld technically as a trade-mark.

Lawrence Manufacturing Company vs. Tennessee Manufacturing Company.

TRADE-MARK—FRAUDULENT AND IMITATION WINES MAY BE SEIZED.—

On November 9, 1893, the St. Louis Collector seized 132 packages of spirituous liquors under Section 3449, Revised Statutes.

W. C. Richardson, public administrator of St. Louis, in

charge of the estate of Lehman Meyer, deceased, appeared as claimant for the goods.

The agreed state of facts upon which the case was tried showed that the goods were compounded at the establishment of the Western Distilling Company, at 201 North Main street, in that city, and after being so compounded were put into bottles marked and branded in various ways such as: J. & F. Martell, Cognac; Booth & Co., London, Superior Old Tom Gin; Robert Burnett & Co., Vauxhall, Old Tom Gin; Boonekamp Maagbitter; Noilly, Prat & Co., Vermouth, and so on. Between May 18, 1893, and October 12 of the same year, the packages were transported in drays from the distilling company's business place to the warehouses of the St. Louis Drayage Company for shipment, and it was there that the packages were seized by the internal revenue officers.

In the United States District Court of Missouri a decision was rendered in favor of claimant. The United States filed a writ of error and Judge Caldwell rendered the opinion of the Court, which held:

The admitted facts bring the case within the letter of the statute, and the packages are unquestionably liable to forfeit if the statute is of any force or validity.

Congress has a right to legislate to prevent frauds on the public revenue, and the validity of such legislation is not affected by the fact that it incidentally tends to the restriction or suppression of private frauds.

U. S. Circuit Court of Appeals, 1896.

TRADE-MARK IS TRANSFERRED WITH BUSINESS.—

A trade-mark that has been used in a particular business should be deemed to have passed with a transfer of the business.

Atlantic Milling Co. vs. Robinson, Wallace J., May 6, 1884, 27 O. G., 1322.

TRADE-MARKS—PRIVATE BRANDS VS. MANUFACTURERS' BRAND.—

If in the following we substitute "whisky" or "cigars," "distillers' brands" for "factory brands," and "private

brands" for "customers' brands," the decision will be appreciated by the whisky interest:

Two classes of labels are recognized by cigar manufacturers—"factory brands" and "customers' brands." The latter are originated by a customer, and used only on goods manufactured for him. A cigar merchant ordered a lot of cigars, of a certain size and quality, under the name of "Blackstone," which he originated. This order the manufacturer filled; but the cigars were not taken by the merchant and were sold to other parties. Held, that the manufacturer acquired no right to use the word "Blackstone" as a trade-mark.

Levy et al. vs. Waitt et al., 893.

TRADE-MARK—G. & F. HELD TO INFRINGE G. F. TRADE-MARK.

Complainants' trade-mark "G. F." held infringed by the use of defendants' trade-mark "G. & F." on a similar class of goods, with the ampersand much smaller than the initials, when as registered and used on other goods the ampersand and initial are of uniform size.

Giron et al. vs. Gartner et al., 1430.

TRADE-MARK—CONSTITUTIONAL LAW—PROTECTION FOR UNIONS.—

Act May 8, 1891, entitled, "An act to protect associations, unions of workmen and persons in their labels, trade-marks and forms of advertising," is not unconstitutional as granting special privileges to certain associations contrary to Const. Ill., art. 4, § 22, since, in giving the right to register such labels and trade-marks to "any person, association or union of workingmen," it gives it to all associations, whether composed of workingmen or not.

Cohn vs. People Ill., 37 N. E. Rep. 60.

TRADE-MARK—CORPORATE NAME AS A TRADE-MARK.—

A foreign corporation, whose name has not become a trade-mark or trade-name, has no right to restrain a domestic corporation from using a corporate name similar to its

own, especially where the domestic corporation was incorporated before the other.

Hazelton Boiler Co. vs. Hazelton Tripod Boiler Co. (Ill.), 30 N. E. Rep. 339.

TRADE-MARK—DEFINITION—CONFLICT IN USE OF NAME "MONARCH."—

R., T. J. and M. V. Monarch built up an extensive reputation and trade for Monarch whiskies, especially in Texas, prior to 1886.

Rosenfeld & Hirsch and the Rock Springs Distilling Company prior to 1886 used the brand "Tip Top" for their whiskies, but they then bought of S. I. Monarch the exclusive right to use his name as a brand for whisky for twenty-five years, agreeing to pay said Monarch seventy-five cents per barrel for all whisky sold by them during that time, with a right to buy one-third interest in their business at actual cost within ten years; S. I. Monarch was then working for a Fort Worth firm on a salary and worth about $10,000 and had never been engaged in the manufacture of whisky. R. Monarch & Co. brought an action in Daviess County, Kentucky for an injunction to restrain the Rock Springs Distilling Company from using the name "Monarch" on their barrels, billheads, etc. Prior to the commencement of this action S. I. Monarch had only one share of stock in the distilling company, but at the time of trial he was president of the company and owned 125 shares.

In 1887, the Circuit Court granted the injunction, holding:

(1) A trade-mark is the *name*, symbol, figure, letter, form or device, adopted and used by a manufacturer or merchant in order to designate the goods that he manufactures or sells, and distinguish them from those manufactured and sold by another, to the end that they may be known in the market as his, and thus enable him to secure such profits as result from a reputation for superior skill, industry or enterprise.

(2) One of the characteristics of a trade-mark is exclu-

siveness. The fair, honest, and ordinary use of a name cannot be enjoined. But even descriptive and generic terms may be so arranged as for the whole to constitute a trade-mark. So the words of plaintiff's brand are arranged in a circle with the plaintiff's name running through the center, like the diameter of a circle, and constitute a trade-mark in the comprehensive sense in which that term is now used.

(3) When a person is selling goods under a particular name, and another person not having that name is using it, it may be presumed that he is using it to represent the goods so sold by himself as the goods of the person whose name he uses. And the fact that one owner of the name is paid for its use only shows the greater desire to possess it for purposes of the benefit accruing from the name.

About that time S. I. Monarch moved to Kentucky and became actively connected with the affairs of the distilling company and in 1892, after defendants had agreed to change their brand so as not to in any wise resemble that of the plaintiff, the Kentucky Court of Appeals decided:

(1) S. I. Monarch has the undoubted right to use his name in business and to place his name on goods of his own manufacture or that of the firm to which he belongs, but he has no right by a deceptive likeness of the mark of the goods of another or by the similitude of these brands to cause the public to mistake his goods for the other.

(2) The plaintiffs could not appropriate the name Monarch as a trade-mark, and thus prevent the appellant from using his own name in like business.

TRADE-MARK—RIGHT TO USE OF PERSONAL NAME AS TRADE-NAME SOMETIMES DENIED.—

W. J. Waterfill and Robert H. Frazier owned and operated a distillery in Anderson County, Kentucky, from 1870 to 1882 and used the trade-name of Waterfill & Frazier on all their whisky until it became known as a valuable brand. In 1882, Waterfill sold his interest in the business to Frazier. In 1885, Waterfill entered into a partnership with John Dowling & Co. and they purchased the distillery and business of

Frazier. Afterward, in 1890, Waterfill sold his interest to Dowling & Co. In all these transfers the right to use the brand "Waterfill & Frazier" in the manufacture of whisky at said distillery was included in the deed. In 1891 Waterfill went into a new partnership with a son of R. H. Frazier under the old name of Waterfill & Frazier. They first used the brand "J. M. Waterfill & Co.," but later asserted their right to the use of the name "Waterfill & Frazier," and Dowling & Co. brought an action in the Jefferson (Ky.) Circuit Court to restrain them from using that name as a brand on whisky. The Court held:

(1) A trade-mark affixed to articles manufactured at a particular place may be lawfully sold and transferred with the establishment.

(2) In a proper sense individuals have a right to use their own names in their brand, but under the state of facts in this case Waterfill & Frazier have no right to use that combination or the combination of their names because it would be an infringement upon the rights of Dowling & Co.

TRADE-MARKS—FIRM SELLING "GOOD-WILL" CANNOT AFTERWARD USE OLD TRADE-MARKS.—

In the case of Mattingly & Co. vs. Mattingly, etc., appealed from Louisville Chancery Court, the Court of Appeals of Kentucky has decided as follows:

When a firm which owned and operated a distillery upon the product of which they had for many years used the firm name as a trade-mark, sold and transferred the distillery and also the "good-will of the firm name" and "all trade-marks, brands and labels" belong to the firm, the members of the firm had no right thereafter to similate any of the brands or trade-marks thus transferred, or to resort to any other fraudulent device to cause the public to associate with the distillery, goods manufactured at a different place, or to receive letters addressed to the firm name, or to fill orders manifestly referring to whisky manufactured according to

the established and long-used formula at the distillery in question.

TRADE-MARK—PROPERTY RIGHT IN WORD "CROW" AS TRADE-MARK PROTECTED.—

W. A. Gaines & Co. have used the words "Old Crow" as the mark of their brand of whisky for many years. Wm. M. Leslie did not imitate the label or package, but put up whisky for sale under the brand "White Crow." Gaines & Co. brought an action against Leslie to restrain his alleged infringement of plaintiff's trade-mark, and the New York Supreme Court decided:

(1) Where labels used by different parties are totally dissimilar in lettering and in general appearance and no actual fraudulent intent is shown, the mere use of a similar name is not such an unfair competition in business as to furnish a basis for injunction.

(2) It is not necessary to prove registration of trade-mark where the proof shows exclusive use of the label for a long time as a matter of fact.

(3) The plaintiff had a property right in the words "Old Crow" as applied to whisky because of their exclusive use for many years and in the case of a distinctive word as a trade-mark the use of the word itself, in any form, by a competitor is a violation of the right of the trade-mark. A word may be used by the manufacturer who has appropriated it, in any style of print or any form of label, and its use by another in any form is unlawful, and this rule applies whether the distinctive word is used alone or together with another.

TRADE-MARK WORDS OR NAMES DESCRIBING PRODUCT CANNOT BE APPROPRIATED.—

Words or names which describe the product or ware to which they are applied, by indicating its kind, quality or ingredients, may not be exclusively appropriated as trade-marks therefor. Words belonging to the common stock of words may not be exclusively appropriated as trade-marks.

Clinton Metallic Paint Co. vs. New York Metallic Paint Co., 50 N. Y. S. 437.

TRADE-MARK—NAME MAY BE SOLD.—

Dr. Kennedy resides at Rondout, N. Y., and conducted a patent medicine business there until 1890, when he sold it to the Dr. Kennedy Corporation. In the bill of sale it was specifically agreed that purchasers should have the sole, absolute and only right to use the name of "Dr. David Kennedy of Rondout, N. Y.," in connection with the proprietary medicine business. All letters so addressed were received by the corporation until February, 1898, when Dr. Kennedy insisted that he had a right to first receive such letters and retain such as he deemed proper and then send the others to the corporation. The Appellate Court, however, in 1899, held that whatever inconvenience he may have experienced in the matter was paid or in the original bill of sale under which he gave the corporation the sole right to use his name, and that having disposed of his name as a trade-mark he cannot subsequently make use of it himself.

TRADE-MARK—SIZE, SHAPE AND STYLE, WITH EMBLEMS, MAY BE PROTECTED.—

A dealer in merchandise may acquire the exclusive right to the use of the shape, size and style in which he exposes his goods for sale, with the emblems, devices and other distinctive features delineated or impressed on them, and the name which he has adopted to represent their contents, and a rival dealer will be enjoined from using similar packages so closely resembling those of the first dealer that they are likely to deceive, and do deceive, the ordinary buyer making his purchases under the ordinary conditions which prevail in the conduct of the particular traffic to which the controversy relates, though no one point of resemblance would be ground for equitable relief.

Fisher vs. Blank, Court of Appeals of New York, 33 N. E. Rep. 1040.

TRADE-MARK—INFRINGEMENT ON "GENUINE HOLLANDS."—

In the case of John de Kuyper vs. Wittemann it has been decided:

(1) That the complainants are entitled to the exclusive

use of a certain label for gin, consisting of the words and letters "Genuine Hollands," which are displayed at the upper part of the label, below which is the word "Geneva," followed by a representation of a scroll having displayed upon it the name "John de Kuyper & Son," the whole inclosed within a border having the shape of a heart.

(2) That the defendants have infringed the right of the complainants to the exclusive use o the said label by printing and vending to be used a label for gin consisting of the words and letters "Genuine Hollands," which are displayed at the upper part of the label, followed by the word "Geneva," and a representation of a scroll, having displayed upon it the words "J. Van Der Koop & Son," the whole inclosed within a border having the shape of a heart.

TRADE-MARK—INDIVIDUAL MUST NOT USE HIS NAME TO DECEIVE.—

While every man has a right to conduct his business in his own name, he must not resort to any artifice for the purpose of producing the impression that his goods are identical with those of another person of the same name.

Clark & Snover Co. vs. Scott (Pa.) 4 Lack. Leg. N. 159.

TRADE-MARK—FORM OF PACKAGE AS A TRADE DISTINCTION IS NOT PROTECTED.—

The Supreme Court of Pennsylvania in the case of two perfumery manufacturers, using the same style of bottle, decided that the "size, shape or mode of construction of a box, barrel, bottle or package into which goods may be put, is not a trade-mark; and if a manufacturer has a right to use a certain label, he may use it on any kind of a bottle that is not patented, and he will not be restrained from combining his own label with a particular shape or style of bottle, for the mere reason that the latter has been previously adopted by some other producer of similar goods."

TRADE-MARK—INFRINGEMENT—DAMAGES.—

To show damages from infringement of plaintiff's trademark, he may show a falling off of his custom concurrently

with defendant's beginning to use the trade-mark, it being for the jury to say whether such use was the cause of the diminution.

Shaw vs. Pilling (Pa.), 34 Atl. Rep. 446.

TRADE-MARK—UNION LABEL NOT A TRADE-MARK.—

In the case of the State vs. Nathan Bailenzheimer, who was convicted in the St. Louis Criminal Court of counterfeiting the "union label" of the cigarmakers' union, the Court of Appeals reversed the finding of the lower court on the grounds that a trade-mark must be a mark or label used by a certain party to designate his goods. The "union label" is not a trade-mark. It is one of the indispensable requisites to a valid trade-mark that it should point out the true origin or ownership of a vendable commodity to which it is fixed. The label does not have this quality. Therefore, no title to it as a trade-mark can accrue. For this reason a person cannot be convicted of counterfeiting it as a trade-mark. But an injunction and damage suit can be had under similar circumstances, provided that it is proven that the label is placed on non-union goods.

TRADE-MARK—LABEL MUST BE FANCIFUL.—

To render a label such a device as to make it the subject of a trade-mark, it must be fanciful or arbitrary; a label merely having reference to the ingredients, mode of composition, or characteristics of the article being insufficient.

Feder vs. Brudno, 5 Ohio N. P. 275.

TRADE-MARK—PERSONAL TRADE-MARK CANNOT BE ASSIGNED.—

J. F. Magale of Galveston, Tex., sold R. Monarch whisky and devised a brand which he stamped on the barrels "Magale's Monarch Whisky." The brand became valuable from the confidence the trade had that Magale selected good whisky and sold it straight. After his death S. J. Flanagan succeeded to the business and used the same brand. He retired in 1890 and assigned the trade-mark to Frieberg, Klein

& Co. for $250 per annum and $4 a barrel for all sold in excess of 100 barrels a year for five years. In 1893 they became insolvent and with Flanagan's consent assigned their contract with him to Mayer, Kohn & Freiberg, who refused to pay Flanagan. Flanagan sued and obtained judgment in the lower court, but on appeal the Supreme Court reversed the decision and held:

(1) The primary function of a trade-mark is to indicate ownership and origin, and unless this is truthfully done it becomes a means of fraud upon the public and will not be protected.

(2) If a trade-mark is a personal one, designating a particular person and his reputation and skill, it cannot be truthfully used by any other person and consequently cannot be assigned.

SHIPPING LIQUORS UNDER NAME INDICATING FALSE ORIGIN.—

Sec. 3449.—"Whenever any person ships, transports or removes any spirituous or fermented liquors or wines, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or causes such act to be done, he shall forfeit said liquors or wines and casks or packages, and be subject to pay a fine of five hundred dollars."

REVENUE OFFICERS CAUTIONED AGAINST ACTING ON STATUTE PROHIBITING SHIPMENT UNDER FALSE NAME.—

If there is legal proof of shipment or removal of spirits under other than the name known to the trade, there is no doubt of the sufficiency of Section 3449, Revised Statutes, to sustain a prosecution of the person proven guilty of such removal. (See United States vs. 132 packages of spirituous liquors and wines, 76 Fed. Rep. 364.) The statute is useful and necessary in the administration of the internal revenue laws, enabling a certain supervision to be exercised over the movement and disposition of distilled spirits and fermented

liquors. Collectors are cautioned, however, against encouraging the multiplication of prosecutions under this statute any further than is necessary in the interest of the government itself.

Though the Courts have held the statute to have been intended to prevent the evasion of internal revenue taxes, incidentally its enforcement is so advantageous to the owners of foreign trade marks that they are willing that the machinery of the internal revenue bureau should be largely employed in detecting and punishing the piracy of their exclusive devices. It is not objectionable that private parties should have such incidental advantage. It is, however, that the statute should be used primarily to prevent infringement of private trade marks, upon complaints by internal revenue officers, instead of being made to subserve the purpose of its enactment.

Treasury Decision, June 23, 1898.

PART III.

INTERNAL REVENUE LAWS

AND

REGULATIONS.

CHAPTER I.

WHOLESALE LIQUOR DEALERS.

WHOLESALE LIQUOR DEALERS.—

Every person who sells or offers for sale foreign or domestic distilled spirits, wines or malt liquors, in quantities of not less than five wine gallons at the same time, shall be regarded as a wholesale liquor dealer.

A person who has been a distiller, who has not renewed his bond as such, having spirits in bond, can only make sale of the same by paying the special tax of a wholesale liquor dealer.

A person is liable to special tax as a wholesale liquor dealer for each and every place where such trade or business is carried on, *i. e.*, for each and every place where he sells foreign or domestic distilled spirits, wines or malt liquors, in quantities not less than five gallons at the same time.

The place where the delivery, either actual or constructive, which transfers ownership from the vendor to the vendee, is made, is regarded as the place of sale, and for that place he should pay the special tax.

A person who sells a warehouse receipt for distilled spirits in bond incurs the special tax of a wholesale liquor dealer.

A person who keeps no spirits on hand, but buys on his own account and ships to his customers, is liable to special tax as a liquor dealer.

A person is not liable as dealer in liquors simply for negotiating sales of them for others, provided he has neither actual nor constructive possession of them; but if he has such possession, so that a delivery, either actual or constructive, is made by him, such delivery as vests the ownership in the purchaser, he is liable to the tax even though he himself is not the owner of the liquors or any part of them.

A distiller delivering spirits elsewhere than at the place of manufacture becomes liable as dealer at such place of delivery. Hence a distiller can only make sale of his spirits away from the place of manufacture by paying tax as liquor dealer or through an authorized liquor dealer.

If, after selling a portion of the spirits from any cask or package, the dealer wishes to dispose of the balance remaining in the original package bearing the remnant of a stamp, he will be required to make another application for stamp or stamps, to cover such balance, either in such original package or other packages to which it may be changed, and if to be sold in the original package, the remnant of the stamp and all marks and brands shall be erased from said package, as required by law and existing regulations.

In no case shall dealers be allowed to sell the spirits remaining in a package bearing the remnant of a stamp, or remove the package with such spirits therein from their premises, unless such package is restamped with a wholesale liquor dealers' stamp.

The statute requires the rectifier and wholesale liquor dealer to make the entries respecting all spirits which come

into their respective establishments from all sources whatever. It is not limited to spirits purchased and sold.

A wholesale liquor dealer cannot sell a package containing less than five gallons.

The words five gallons, in the section of law relating to the special tax of a wholesale liquor dealer, mean wine gallons, and not proof gallons.

Wholesale liquor dealer need not enter imported bay rum on form 52 nor affix W. L. D. stamp to bay rum drawn from imported packages. He may reduce proof of imported bay rum that is in a package bearing import stamp. And can manufacture bay rum by the barrel, of spirits and oil of bay, with 100 per cent. proof, without subjecting himself to tax as rectifier. But spirits for this purpose should be entered on form 52 as disposed of to themselves.

FORM 52.

TO BE KEPT BY WHOLESALE DEALERS AND RECTIFIERS.

This form of book is required to be kept by every rectifier and wholesale liquor dealer who receives or sends out distilled spirits, and should exhibit all the spirits received or sent out, whether received or sent in pursuance of purchase, sale or otherwise.

Wholesale liquor dealers who are not also rectifiers will be permitted to have books made omitting the columns relative to rectification.

Rectifiers who are also wholesale liquor dealers must keep the accounts relating to each particular business entirely distinct and separate by the appropriate use of the columns for spirits rectified.

Every person who rectifies, purifies or refines distilled spirits or wines is a rectifier, except distillers who purify or refine distilled spirits in their distilleries in the course of original and continuous distillation from mash, wort or wash, and every person who, by mixing distilled spirits, wines or other liquors with any material, manufactures any spurious, imitation or

compound liquor for sale is also regarded as a rectifier. Every person who sells or offers for sale distilled spirits, wines or malt liquors in quantities of not less than 5 gallons at the same time is a wholesale liquor dealer.

A person negotiating sales and making delivery as agent at a place other than the place of business of the principal thereby becomes a liquor dealer, whether he acts in the name of his principal or not.

Rectifiers and wholesale liquor dealers having spirits stored near their place of business and subject to their own control, for the purpose of being disposed of at their place of business, will regard such liquors as constituting part of their stock, and enter them accordingly. The business of rectifying, or selling or offering for sale cannot be carried on at such places of storage, but only at the place named in the special tax receipt.

Should a rectifier wish to dump a package from which a portion of the spirits has been sold by him as a wholesale liquor dealer, he will make application on Form 92 for a stamp to cover the spirits remaining in the package, and attach said stamp as hereinbefore required.

He will then transfer such package to himself as a rectifier, reporting such transfer on his book (Form 52).

If, after a portion of the spirits has been sold from any cask or package, a wholesale dealer (who has paid special tax as a retail liquor dealer) wishes to retail the balance on the same premises, he must transfer such balance to himself as a retail liquor dealer and report such transfer on his book (Form 52).

A wholesale liquor dealer must keep a book at each place where spirits are sold, or offered for sale.

In entering "Spirits received" the following instructions must be observed:

Under "Date when received" give the year, month and day on which the spirits are received.

Under "From whom received" enter name of the distiller, dealer, rectifier or other person from whom the spirits are received. In no case will the name of an intermediate party, such as a common carrier or an agent who simply negotiates sales, be given in this column. Dealers and rectifiers cannot purchase or receive distilled spirits in greater quantity than 20 gallons from

any person other than an authorized rectifier, distiller or wholesale liquor dealer; but it is provided that this provision shall not be held to apply to judicial sales, or to sales at public auction made by an auctioneer, and certain other sales are also excepted by paragraph 5, section 3244, as amended by section 4, act of March 1, 1879. (See sec. 3319, Rev. Stat.)

Under "Whence received" write the name of the city or town and state, and, if a city, the street and number of the place of business of the person from whom received.

Under the head of "Number of packages" enter, in figures, the number of packages of each kind of spirits, as known to the trade, that have been received from one person or firm at one time.

Under the head of "Kind of spirits" enter the names as known to the trade, such as "high wines," "Bourbon," "rye whisky," etc.

Under the head "By whom distilled or rectified" write the name of the distiller, or, if the spirits have been rectified, the name of the rectifier, with the district and state where distilled or rectified.

This information will appear in the stamps and marks on the barrels, whether change of package by a wholesale dealer has occurred or not.

Under "By whom and when inspected" give the name of the United States gauger who gauged the package and affixed the stamp, and the date of such gauge. The name will be found on the stamp and in the marks.

Where impracticable to determine the name of the gauger, as in the case of imported spirits, the word "unknown" may be entered in the space where the name of the gauger would otherwise appear.

In making entry of a distiller's original package which was regauged on withdrawal from distillery warehouse, the name of the gauger who made such regauge will be given.

Under "Number of gallons" enter the number of wine gallons and proof gallons in each package, as shown by the marks of the United States gauger. The quantity in each package must be stated separately.

Where entry is made of spirits marked as having an apparent

proof only, the apparent proof gallons will be entered in the column "Proof," under the head of "Number of gallons" or "No. of gallons," as the case may be, and the letters "A. P." will precede such entry.

In making entry of "No proof" spirits, the number of wine gallons will be entered in the proof-gallon column.

In entering casks of spirits which were regauged on withdrawal from distillery warehouse, the number of wine and proof gallons marked thereon at the time of such regauge will be entered.

Under head of "Number of proof gallons out" may be entered the number of gallons out if a regauge is made at the time of receiving the spirits.

Under the head of "Serial number of packages" enter the serial number of each package other than rectified spirits, which will be found on the head of the barrel under the bung stave, on a line with the number of gallons; also, in the warehouse and tax-paid stamps. No serial numbers of package are required on casks of rectified spirits.

Under the head of "Serial number and kind of stamp" enter the series and serial number of each stamp, which will be found in red figures on the stamp on a line with the serial number of each package.

The series of stamps are shown in the letter preceding the serial number, as A, B, C, etc.

Under the head "Spirits emptied for rectification from stock received," on the left-hand page, every rectifier will enter in the appropriate columns, on the day of dumping, all spirits emptied for rectification, giving, in addition to the date, the number of wine and proof gallons, the serial number of the packages, the serial number and kind of stamps, by whom distilled or rectified, with district and state where distilled or rectified, and the date of original inspection.

When spirits of "Apparent proof" or of " No proof" are emptied for rectification, the rule given above for entry of the number of gallons will be observed.

In entering "Spirits disposed of," under head of "Date when sent," give the year, month and day on which the spirits are to be sent out or otherwise disposed of.

siveness. The fair, honest, and ordinary use of a name cannot be enjoined. But even descriptive and generic terms may be so arranged as for the whole to constitute a trade-mark. So the words of plaintiff's brand are arranged in a circle with the plaintiff's name running through the center, like the diameter of a circle, and constitute a trade-mark in the comprehensive sense in which that term is now used.

(3) When a person is selling goods under a particular name, and another person not having that name is using it, it may be presumed that he is using it to represent the goods so sold by himself as the goods of the person whose name he uses. And the fact that one owner of the name is paid for its use only shows the greater desire to possess it for purposes of the benefit accruing from the name.

About that time S. I. Monarch moved to Kentucky and became actively connected with the affairs of the distilling company and in 1892, after defendants had agreed to change their brand so as not to in any wise resemble that of the plaintiff, the Kentucky Court of Appeals decided:

(1) S. I. Monarch has the undoubted right to use his name in business and to place his name on goods of his own manufacture or that of the firm to which he belongs, but he has no right by a deceptive likeness of the mark of the goods of another or by the similitude of these brands to cause the public to mistake his goods for the other.

(2) The plaintiffs could not appropriate the name Monarch as a trade-mark, and thus prevent the appellant from using his own name in like business.

TRADE-MARK—RIGHT TO USE OF PERSONAL NAME AS TRADE-NAME SOMETIMES DENIED.—

W. J. Waterfill and Robert H. Frazier owned and operated a distillery in Anderson County, Kentucky, from 1870 to 1882 and used the trade-name of Waterfill & Frazier on all their whisky until it became known as a valuable brand. In 1882, Waterfill sold his interest in the business to Frazier. In 1885, Waterfill entered into a partnership with John Dowling & Co. and they purchased the distillery and business of

Frazier. Afterward, in 1890, Waterfill sold his interest to Dowling & Co. In all these transfers the right to use the brand "Waterfill & Frazier" in the manufacture of whisky at said distillery was included in the deed. In 1891 Waterfill went into a new partnership with a son of R. H. Frazier under the old name of Waterfill & Frazier. They first used the brand "J. M. Waterfill & Co.," but later asserted their right to the use of the name "Waterfill & Frazier," and Dowling & Co. brought an action in the Jefferson (Ky.) Circuit Court to restrain them from using that name as a brand on whisky. The Court held:

(1) A trade-mark affixed to articles manufactured at a particular place may be lawfully sold and transferred with the establishment.

(2) In a proper sense individuals have a right to use their own names in their brand, but under the state of facts in this case Waterfill & Frazier have no right to use that combination or the combination of their names because it would be an infringement upon the rights of Dowling & Co.

TRADE-MARKS—FIRM SELLING "GOOD-WILL" CANNOT AFTERWARD USE OLD TRADE-MARKS.—

In the case of Mattingly & Co. vs. Mattingly, etc., appealed from Louisville Chancery Court, the Court of Appeals of Kentucky has decided as follows:

When a firm which owned and operated a distillery upon the product of which they had for many years used the firm name as a trade-mark, sold and transferred the distillery and also the "good-will of the firm name" and "all trade-marks, brands and labels" belong to the firm, the members of the firm had no right thereafter to similate any of the brands or trade-marks thus transferred, or to resort to any other fraudulent device to cause the public to associate with the distillery, goods manufactured at a different place, or to receive letters addressed to the firm name, or to fill orders manifestly referring to whisky manufactured according to

the established and long-used formula at the distillery in question.

TRADE-MARK—PROPERTY RIGHT IN WORD "CROW" AS TRADE-MARK PROTECTED.—

W. A. Gaines & Co. have used the words "Old Crow" as the mark of their brand of whisky for many years. Wm. M. Leslie did not imitate the label or package, but put up whisky for sale under the brand "White Crow." Gaines & Co. brought an action against Leslie to restrain his alleged infringement of plaintiff's trade-mark, and the New York Supreme Court decided:

(1) Where labels used by different parties are totally dissimilar in lettering and in general appearance and no actual fraudulent intent is shown, the mere use of a similar name is not such an unfair competition in business as to furnish a basis for injunction.

(2) It is not necessary to prove registration of trade-mark where the proof shows exclusive use of the label for a long time as a matter of fact.

(3) The plaintiff had a property right in the words "Old Crow" as applied to whisky because of their exclusive use for many years and in the case of a distinctive word as a trade-mark the use of the word itself, in any form, by a competitor is a violation of the right of the trade-mark. A word may be used by the manufacturer who has appropriated it, in any style of print or any form of label, and its use by another in any form is unlawful, and this rule applies whether the distinctive word is used alone or together with another.

TRADE-MARK WORDS OR NAMES DESCRIBING PRODUCT CANNOT BE APPROPRIATED.—

Words or names which describe the product or ware to which they are applied, by indicating its kind, quality or ingredients, may not be exclusively appropriated as trade-marks therefor. Words belonging to the common stock of words may not be exclusively appropriated as trade-marks.

Clinton Metallic Paint Co. vs. New York Metallic Paint Co., 50 N. Y. S. 437.

TRADE-MARK—NAME MAY BE SOLD.—

Dr. Kennedy resides at Rondout, N. Y., and conducted a patent medicine business there until 1890, when he sold it to the Dr. Kennedy Corporation. In the bill of sale it was specifically agreed that purchasers should have the sole, absolute and only right to use the name of "Dr. David Kennedy of Rondout, N. Y.," in connection with the proprietary medicine business. All letters so addressed were received by the corporation until February, 1898, when Dr. Kennedy insisted that he had a right to first receive such letters and retain such as he deemed proper and then send the others to the corporation. The Appellate Court, however, in 1899, held that whatever inconvenience he may have experienced in the matter was paid or in the original bill of sale under which he gave the corporation the sole right to use his name, and that having disposed of his name as a trade-mark he cannot subsequently make use of it himself.

TRADE-MARK—SIZE, SHAPE AND STYLE, WITH EMBLEMS, MAY BE PROTECTED.—

A dealer in merchandise may acquire the exclusive right to the use of the shape, size and style in which he exposes his goods for sale, with the emblems, devices and other distinctive features delineated or impressed on them, and the name which he has adopted to represent their contents, and a rival dealer will be enjoined from using similar packages so closely resembling those of the first dealer that they are likely to deceive, and do deceive, the ordinary buyer making his purchases under the ordinary conditions which prevail in the conduct of the particular traffic to which the controversy relates, though no one point of resemblance would be ground for equitable relief.

Fisher vs. Blank, Court of Appeals of New York, 33 N. E. Rep. 1040.

TRADE-MARK—INFRINGEMENT ON "GENUINE HOLLANDS."—

In the case of John de Kuyper vs. Wittemann it has been decided:

(1) That the complainants are entitled to the exclusive

use of a certain label for gin, consisting of the words and letters "Genuine Hollands," which are displayed at the upper part of the label, below which is the word "Geneva," followed by a representation of a scroll having displayed upon it the name "John de Kuyper & Son," the whole inclosed within a border having the shape of a heart.

(2) That the defendants have infringed the right of the complainants to the exclusive use o the said label by printing and vending to be used a label for gin consisting of the words and letters "Genuine Hollands," which are displayed at the upper part of the label, followed by the word "Geneva," and a representation of a scroll, having displayed upon it the words "J. Van Der Koop & Son," the whole inclosed within a border having the shape of a heart.

TRADE-MARK—INDIVIDUAL MUST NOT USE HIS NAME TO DECEIVE.—

While every man has a right to conduct his business in his own name, he must not resort to any artifice for the purpose of producing the impression that his goods are identical with those of another person of the same name.

Clark & Snover Co. vs. Scott (Pa.) 4 Lack. Leg. N. 159.

TRADE-MARK—FORM OF PACKAGE AS A TRADE DISTINCTION IS NOT PROTECTED.—

The Supreme Court of Pennsylvania in the case of two perfumery manufacturers, using the same style of bottle, decided that the "size, shape or mode of construction of a box, barrel, bottle or package into which goods may be put, is not a trade-mark; and if a manufacturer has a right to use a certain label, he may use it on any kind of a bottle that is not patented, and he will not be restrained from combining his own label with a particular shape or style of bottle, for the mere reason that the latter has been previously adopted by some other producer of similar goods."

TRADE-MARK—INFRINGEMENT—DAMAGES.—

To show damages from infringement of plaintiff's trademark, he may show a falling off of his custom concurrently

with defendant's beginning to use the trade-mark, it being for the jury to say whether such use was the cause of the diminution.

Shaw vs. Pilling (Pa.), 34 Atl. Rep. 446.

TRADE-MARK—UNION LABEL NOT A TRADE-MARK.—

In the case of the State vs. Nathan Bailenzheimer, who was convicted in the St. Louis Criminal Court of counterfeiting the "union label" of the cigarmakers' union, the Court of Appeals reversed the finding of the lower court on the grounds that a trade-mark must be a mark or label used by a certain party to designate his goods. The "union label" is not a trade-mark. It is one of the indispensable requisites to a valid trade-mark that it should point out the true origin or ownership of a vendable commodity to which it is fixed. The label does not have this quality. Therefore, no title to it as a trade-mark can accrue. For this reason a person cannot be convicted of counterfeiting it as a trade-mark. But an injunction and damage suit can be had under similar circumstances, provided that it is proven that the label is placed on non-union goods.

TRADE-MARK—LABEL MUST BE FANCIFUL.—

To render a label such a device as to make it the subject of a trade-mark, it must be fanciful or arbitrary; a label merely having reference to the ingredients, mode of composition, or characteristics of the article being insufficient.

Feder vs. Brudno, 5 Ohio N. P. 275.

TRADE-MARK—PERSONAL TRADE-MARK CANNOT BE ASSIGNED.—

J. F. Magale of Galveston, Tex., sold R. Monarch whisky and devised a brand which he stamped on the barrels "Magale's Monarch Whisky." The brand became valuable from the confidence the trade had that Magale selected good whisky and sold it straight. After his death S. J. Flanagan succeeded to the business and used the same brand. He retired in 1890 and assigned the trade-mark to Frieberg, Klein

& Co. for $250 per annum and $4 a barrel for all sold in excess of 100 barrels a year for five years. In 1893 they became insolvent and with Flanagan's consent assigned their contract with him to Mayer, Kohn & Freiberg, who refused to pay Flanagan. Flanagan sued and obtained judgment in the lower court, but on appeal the Supreme Court reversed the decision and held:

(1) The primary function of a trade-mark is to indicate ownership and origin, and unless this is truthfully done it becomes a means of fraud upon the public and will not be protected.

(2) If a trade-mark is a personal one, designating a particular person and his reputation and skill, it cannot be truthfully used by any other person and consequently cannot be assigned.

SHIPPING LIQUORS UNDER NAME INDICATING FALSE ORIGIN.—

Sec. 3449.—"Whenever any person ships, transports or removes any spirituous or fermented liquors or wines, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or causes such act to be done, he shall forfeit said liquors or wines and casks or packages, and be subject to pay a fine of five hundred dollars."

REVENUE OFFICERS CAUTIONED AGAINST ACTING ON STATUTE PROHIBITING SHIPMENT UNDER FALSE NAME.—

If there is legal proof of shipment or removal of spirits under other than the name known to the trade, there is no doubt of the sufficiency of Section 3449, Revised Statutes, to sustain a prosecution of the person proven guilty of such removal. (See United States vs. 132 packages of spirituous liquors and wines, 76 Fed. Rep. 364.) The statute is useful and necessary in the administration of the internal revenue laws, enabling a certain supervision to be exercised over the movement and disposition of distilled spirits and fermented

liquors. Collectors are cautioned, however, against encouraging the multiplication of prosecutions under this statute any further than is necessary in the interest of the government itself.

Though the Courts have held the statute to have been intended to prevent the evasion of internal revenue taxes, incidentally its enforcement is so advantageous to the owners of foreign trade marks that they are willing that the machinery of the internal revenue bureau should be largely employed in detecting and punishing the piracy of their exclusive devices. It is not objectionable that private parties should have such incidental advantage. It is, however, that the statute should be used primarily to prevent infringement of private trade marks, upon complaints by internal revenue officers, instead of being made to subserve the purpose of its enactment.

Treasury Decision, June 23, 1898.

PART III.

INTERNAL REVENUE LAWS

AND

REGULATIONS.

CHAPTER I.

WHOLESALE LIQUOR DEALERS.

WHOLESALE LIQUOR DEALERS.—

Every person who sells or offers for sale foreign or domestic distilled spirits, wines or malt liquors, in quantities of not less than five wine gallons at the same time, shall be regarded as a wholesale liquor dealer.

A person who has been a distiller, who has not renewed his bond as such, having spirits in bond, can only make sale of the same by paying the special tax of a wholesale liquor dealer.

A person is liable to special tax as a wholesale liquor dealer for each and every place where such trade or business is carried on, *i. e.*, for each and every place where he sells foreign or domestic distilled spirits, wines or malt liquors, in quantities not less than five gallons at the same time.

The place where the delivery, either actual or constructive, which transfers ownership from the vendor to the vendee, is made, is regarded as the place of sale, and for that place he should pay the special tax.

A person who sells a warehouse receipt for distilled spirits in bond incurs the special tax of a wholesale liquor dealer.

A person who keeps no spirits on hand, but buys on his own account and ships to his customers, is liable to special tax as a liquor dealer.

A person is not liable as dealer in liquors simply for negotiating sales of them for others, provided he has neither actual nor constructive possession of them; but if he has such possession, so that a delivery, either actual or constructive, is made by him, such delivery as vests the ownership in the purchaser, he is liable to the tax even though he himself is not the owner of the liquors or any part of them.

A distiller delivering spirits elsewhere than at the place of manufacture becomes liable as dealer at such place of delivery. Hence a distiller can only make sale of his spirits away from the place of manufacture by paying tax as liquor dealer or through an authorized liquor dealer.

If, after selling a portion of the spirits from any cask or package, the dealer wishes to dispose of the balance remaining in the original package bearing the remnant of a stamp, he will be required to make another application for stamp or stamps, to cover such balance, either in such original package or other packages to which it may be changed, and if to be sold in the original package, the remnant of the stamp and all marks and brands shall be erased from said package, as required by law and existing regulations.

In no case shall dealers be allowed to sell the spirits remaining in a package bearing the remnant of a stamp, or remove the package with such spirits therein from their premises, unless such package is restamped with a wholesale liquor dealers' stamp.

The statute requires the rectifier and wholesale liquor dealer to make the entries respecting all spirits which come

into their respective establishments from all sources whatever. It is not limited to spirits purchased and sold.

A wholesale liquor dealer cannot sell a package containing less than five gallons.

The words five gallons, in the section of law relating to the special tax of a wholesale liquor dealer, mean wine gallons, and not proof gallons.

Wholesale liquor dealer need not enter imported bay rum on form 52 nor affix W. L. D. stamp to bay rum drawn from imported packages. He may reduce proof of imported bay rum that is in a package bearing import stamp. And can manufacture bay rum by the barrel, of spirits and oil of bay, with 100 per cent. proof, without subjecting himself to tax as rectifier. But spirits for this purpose should be entered on form 52 as disposed of to themselves.

FORM 52.

TO BE KEPT BY WHOLESALE DEALERS AND RECTIFIERS.

This form of book is required to be kept by every rectifier and wholesale liquor dealer who receives or sends out distilled spirits, and should exhibit all the spirits received or sent out, whether received or sent in pursuance of purchase, sale or otherwise.

Wholesale liquor dealers who are not also rectifiers will be permitted to have books made omitting the columns relative to rectification.

Rectifiers who are also wholesale liquor dealers must keep the accounts relating to each particular business entirely distinct and separate by the appropriate use of the columns for spirits rectified.

Every person who rectifies, purifies or refines distilled spirits or wines is a rectifier, except distillers who purify or refine distilled spirits in their distilleries in the course of original and continuous distillation from mash, wort or wash, and every person who, by mixing distilled spirits, wines or other liquors with any material, manufactures any spurious, imitation or

compound liquor for sale is also regarded as a rectifier. Every person who sells or offers for sale distilled spirits, wines or malt liquors in quantities of not less than 5 gallons at the same time is a wholesale liquor dealer.

A person negotiating sales and making delivery as agent at a place other than the place of business of the principal thereby becomes a liquor dealer, whether he acts in the name of his principal or not.

Rectifiers and wholesale liquor dealers having spirits stored near their place of business and subject to their own control, for the purpose of being disposed of at their place of business, will regard such liquors as constituting part of their stock, and enter them accordingly. The business of rectifying, or selling or offering for sale cannot be carried on at such places of storage, but only at the place named in the special tax receipt.

Should a rectifier wish to dump a package from which a portion of the spirits has been sold by him as a wholesale liquor dealer, he will make application on Form 92 for a stamp to cover the spirits remaining in the package, and attach said stamp as hereinbefore required.

He will then transfer such package to himself as a rectifier, reporting such transfer on his book (Form 52).

If, after a portion of the spirits has been sold from any cask or package, a wholesale dealer (who has paid special tax as a retail liquor dealer) wishes to retail the balance on the same premises, he must transfer such balance to himself as a retail liquor dealer and report such transfer on his book (Form 52).

A wholesale liquor dealer must keep a book at each place where spirits are sold, or offered for sale.

In entering "Spirits received" the following instructions must be observed:

Under "Date when received" give the year, month and day on which the spirits are received.

Under "From whom received" enter name of the distiller, dealer, rectifier or other person from whom the spirits are received. In no case will the name of an intermediate party, such as a common carrier or an agent who simply negotiates sales, be given in this column. Dealers and rectifiers cannot purchase or receive distilled spirits in greater quantity than 20 gallons from

any person other than an authorized rectifier, distiller or wholesale liquor dealer; but it is provided that this provision shall not be held to apply to judicial sales, or to sales at public auction made by an auctioneer, and certain other sales are also excepted by paragraph 5, section 3244, as amended by section 4, act of March 1, 1879. (See sec. 3319, Rev. Stat.)

Under "Whence received" write the name of the city or town and state, and, if a city, the street and number of the place of business of the person from whom received.

Under the head of "Number of packages" enter, in figures, the number of packages of each kind of spirits, as known to the trade, that have been received from one person or firm at one time.

Under the head of "Kind of spirits" enter the names as known to the trade, such as "high wines," "Bourbon," "rye whisky," etc.

Under the head "By whom distilled or rectified" write the name of the distiller, or, if the spirits have been rectified, the name of the rectifier, with the district and state where distilled or rectified.

This information will appear in the stamps and marks on the barrels, whether change of package by a wholesale dealer has occurred or not.

Under "By whom and when inspected" give the name of the United States gauger who gauged the package and affixed the stamp, and the date of such gauge. The name will be found on the stamp and in the marks.

Where impracticable to determine the name of the gauger, as in the case of imported spirits, the word "unknown" may be entered in the space where the name of the gauger would otherwise appear.

In making entry of a distiller's original package which was regauged on withdrawal from distillery warehouse, the name of the gauger who made such regauge will be given.

Under "Number of gallons" enter the number of wine gallons and proof gallons in each package, as shown by the marks of the United States gauger. The quantity in each package must be stated separately.

Where entry is made of spirits marked as having an apparent

proof only, the apparent proof gallons will be entered in the column "Proof," under the head of "Number of gallons" or "No. of gallons," as the case may be, and the letters "A. P." will precede such entry.

In making entry of "No proof" spirits, the number of wine gallons will be entered in the proof-gallon column.

In entering casks of spirits which were regauged on withdrawal from distillery warehouse, the number of wine and proof gallons marked thereon at the time of such regauge will be entered.

Under head of "Number of proof gallons out" may be entered the number of gallons out if a regauge is made at the time of receiving the spirits.

Under the head of "Serial number of packages" enter the serial number of each package other than rectified spirits, which will be found on the head of the barrel under the bung stave, on a line with the number of gallons; also, in the warehouse and tax-paid stamps. No serial numbers of package are required on casks of rectified spirits.

Under the head of "Serial number and kind of stamp" enter the series and serial number of each stamp, which will be found in red figures on the stamp on a line with the serial number of each package.

The series of stamps are shown in the letter preceding the serial number, as A, B, C, etc.

Under the head "Spirits emptied for rectification from stock received," on the left-hand page, every rectifier will enter in the appropriate columns, on the day of dumping, all spirits emptied for rectification, giving, in addition to the date, the number of wine and proof gallons, the serial number of the packages, the serial number and kind of stamps, by whom distilled or rectified, with district and state where distilled or rectified, and the date of original inspection.

When spirits of "Apparent proof" or of " No proof" are emptied for rectification, the rule given above for entry of the number of gallons will be observed.

In entering "Spirits disposed of," under head of "Date when sent," give the year, month and day on which the spirits are to be sent out or otherwise disposed of.

Under head of "To whom sent" give the name of the person to whose control the spirits are sent, whether in pursuance of sale or otherwise; but the names of intermediate parties, such as common carriers or agents, who will not receive actual or constructive possession thereof, should not be given.

Under "Place of business" give the town or city and state of the person to whom sent, and, if a city, the street and number of his place of business.

Under "Number of packages" enter separately, in figures, the number of packages of each kind of spirits, as known to the trade, sent to the same person or firm at the same time.

Under head of "Kind of spirits" give the name of the spirits as known to the trade.

In column "By whom distilled or rectified" write the name of the distiller, or, if the spirits have been rectified, the name of the rectifier, with the district and state where distilled or rectified. If by the party himself he will enter his own name.

Under head "By whom inspected" give the name of the United States gauger making the gauge and the date of such gauge.

In column "Number of gallons" give the wine and proof gallons, as shown in the gauge marks of the United States gauger making the last gauge.

In column "Number of proof gallons out" may be stated the proof gallons out if a regauge is made.

Under head "Serial number of package" enter the serial number of each package other than rectified spirits.

Under head of "Serial number and kind of stamps" enter the serial number of each stamp in the proper column.

Under head "Spirits received from rectification" enter the date when received; "Number of packages," the number of wine and proof gallons (observing the rule given above in case of "no proof" spirits or "apparent proof" spirits), the kind of spirits, the serial number of rectifier's stamps placed thereon, the date of inspection and the name of the gauger, each item to be in the appropriate column.

All spirits entered on the "Received" side of the book must have their disposition shown on the "Disposed of" side of the same.

The purchase of spirits solely for exportation and sale abroad does not constitute the purchaser a wholesale liquor dealer, and such transaction is not required to be entered on the book.

Persons who simply store spirits for the owners, and neither deal in spirits nor own the same, are not required to keep the book.

When a party carries on the business of wholesale and retail liquor dealer on the same premises, he should take credit on this account for spirits disposed of at retail, which he has entered as received, by setting aside packages from which to draw for retail only, and entering them as disposed of to himself as retail dealer.

Each package is required to be entered separately, except that, when a number of packages are received on the same day, from the same source, in the same way, distilled or rectified by the same person, inspected by the same gauger, and of the same kind, and where the serial numbers of the packages and of the stamps are continuous, such spirits may be entered in the aggregate. The same rule applies to the entry of spirits disposed of.

The wholesale dealer or rectifier must make the entries of spirits received in his Form 52 on the same day on which he received them, and before he draws off any part thereof or in any respect alters the condition of the same.

He must also at the time of sending out of his stock or possession any spirits, and before the same are removed from his premises, make entry of the disposition of the same in said book.

By section 5 of the act entitled "An act to amend the laws relating to internal revenue," approved March 1, 1879, section 3318, Revised Statutes, is amended as follows:

That every person required to keep the books prescribed by this section shall, on or before the tenth day of each month, make a full and complete transcript of all entries made in such book during the month preceding, and, after verifying the same by oath, shall forward the same to the collector of the district in which he resides. Any failure by reason of refusal or neglect to make such transcripts shall subject the person so offending to a fine of one hundred dollars for each neglect or refusal.

Whenever a wholesale liquor dealer fills a package of five

or more wine gallons of spirits from a distiller's, rectifier's or wholesale liquor dealer's package, he should enter in the appropriate space on the disposed of side of the book the name and place of business of the person or firm to whom the package is sent, and under the head "By whom distilled or rectified" enter the name of the distiller or rectifier who produced the spirits. Under the head "By whom inspected" enter the name of the gauger who inspected the spirits in the original cask from which the dealer's package has been filled, and the date of said inspection. In the column "Number of gallons" enter the wine and proof gallons contained in the package filled by the dealer. Under the head "Serial number of package" enter the serial number of the cask if the spirits were taken from a distiller's package, in which case, also, enter the serial numbers of the warehouse, and the tax-paid stamps in the appropriate spaces. Under the head "Number of rectifier's stamp" should be entered the number of the rectifier's stamp in case the spirits were taken from a rectifier's original package. Under the head of "W. L. D. stamp" enter the number of the W. L. D. stamp placed upon the package filled by the dealer, and in case the package has been filled from a cask bearing a W. L. D. stamp, the number of the stamp on said cask should be entered in red ink in the same column, and *over* the number of the dealer's stamp under which the spirits are sent out.

It is recommended where a dealer instructs a distiller or rectifier to ship the goods he has purchased direct to one of his (the dealer's) customers, the name and place of the party receiving the goods be entered in Form 52, with a note of explanation saying, "Ordered by ————." The dealer should in that case make entry in his Form 52 as received from the distiller with the explanatory remark, "Shipped direct to ————," and should make corresponding explanation in making entry on the disposed of side of his Form 52. Making entries in the government book in this way will correspond with the entries in the private books of the distiller or rectifier.

All entries should be made with great care so that each word and figure is perfectly legible.

There should be no erasures in book Form 52. If an erroneous entry is made it should be canceled by drawing one or more red lines over each word and figure in the erroneous entry.

All entries should be made with ink, and in no case with lead pencil.

Entries should be made of all imported, as well as domestic, spirits "Received and Disposed of."

Book Form 52 should be preserved for a period not less than two years after it is filled up.

Entries of spirits received must be made on the same day on which it is received, and before any part is drawn off, or the condition of the same is altered in any respect.

Entries of spirits disposed of must be made before the spirits are moved from the premises.

When there is a regauge or withdrawal from bonded warehouses, the name of gauger making the re-inspection and the date of the same is entered.

No entry is required to be made on Form 52, by distillers or other dealers, when spirits are sold in bond upon warehouse receipts.

The first entry will be made by the distiller when the spirits are withdrawn from the distillery warehouse, and it will give the full description of the packages and contents, the name and place of business of the persons or firm to whom the spirits are sent, and who will have the custody or control of the spirits after such withdrawal, and such other particulars as are required by the statute.

PURCHASING SPIRITS.—

Sec. 3319.—No rectifier or wholesale liquor dealer shall purchase or receive any spirits in quantities greater than twenty gallons of anyone not a rectifier, distiller or wholesale liquor dealer, except in case of judicial or auction sale.

SALE OF WAREHOUSE CERTIFICATES FOR WHISKY IN BOND.—

The sale of spirits is actually completed at the time of the sale and delivery of warehouse certificates for whisky in bond, and the special tax of a wholesale liquor dealer is required to be paid for such sale, notwithstanding the fact that the purchaser cannot obtain immediate possession of the spirits by reason of the necessity of obtaining the signature of the distiller to applications and entries for regauge and withdrawal of the spirits.

But the owners may intrust the certificates to a wholesale

dealer for sale at his regular place of business as their agent, and thus avoid the liability for such special tax.

Where, however, such certificates contain conditions and stipulations to be complied with at some future time and place before the purchaser becomes entitled to the ownership and possession (either actual or constructive) of the packages of spirits described in the certificates, it is held that the transfer and delivery of such certificates do not require payment of special tax.

It is also held that the provisions of section 3319, Revised Statutes, which make it a criminal offense for a rectifier or dealer to purchase or receive distilled spirits in quantities greater than twenty gallons from any person other than a rectifier, distiller, or wholesale dealer, apply only to actual packages of spirits and not to warehouse certificates or other instruments representing such packages.

Treasury Decision, February 2, 1898.

LICENSE REQUIRED OF WHOLESALE DEALER AT EVERY PLACE OF SALE.—

Wholesale liquor dealers going on the road with the usual warehouse certificates, whose sale and delivery constitute a complete transfer to the purchaser of the ownership and constructive possession of the packages of spirits therein described, cannot sell and deliver them without taking out wholesale liquor dealer's license at every place where such sales are made.

Treasury Decision, January 13, 1898.

LIABILITY FOR USE OF FILTERING MACHINE.—

Using a filtering machine is regarded as under the provision regarding "apparatus for the purpose of refining distilled spirits," the presence of which on the premises of a wholesale liquor dealer constitutes such dealer a rectifier. The simple straining of spirits through cotton, cotton cloth, or some similar loose material for the purpose of mechanically removing any particle of extraneous matter floating in the liquid has not been objected to, but the use of a closely packed medium through which the spirits are forced under pressure is prohibited.

Commissioner's Letter, March 3, 1898.

CHAPTER II.

RETAIL LIQUOR DEALERS.

REGULATIONS APPLICABLE TO RETAIL LIQUOR DEALERS.—Every person who sells or offers for sale foreign or domestic distilled spirits, wines or malt liquors in quantities of less than five wine gallons, at the same time, shall be regarded as a retail liquor dealer.

The sale of several packages of the *same* kind of spirits or wine at the same time, each containing less than five wine gallons, but which contain in the aggregate more, cannot be made by a retail dealer, but *he may sell several packages of different kinds of spirits or wine, each containing less than five wine gallons, although the aggregate may be more.* The sale of each different kind is considered as a separate sale. (Internal Revenue Record, vol. 30, page 29).

The sale of liquor to its members by a club or association of persons not incorporated, combining together to promote social and literary objects, subjects it to a tax as retail dealer, and renders the club or any member thereof criminally responsible for the failure to pay such tax. Any course of selling, though to a restricted class of persons and without a view to profit, is within the meaning of the statute. (Internal Revenue Record, vol. 22, page 98).

Special-tax stamps can be issued only to dealers in distilled spirits, wines or malt liquors who sell at a fixed place, which shall be clearly indicated in the special-tax stamp.

The law does not provide for the peddling of either distilled spirits, wines or malt liquors, and persons found sell-

ing the same in the manner of peddlers must be regarded as engaged in business not authorized by the special-tax *laws.*

Special-tax stamps are issued to persons carrying on the business of retail dealers in liquors, retail dealers in malt liquors, or dealers in tobacco upon passenger railroad trains, or upon steamboats or other vessels engaged in the business of carrying passengers.

Where an association renting and occupying premises or grounds, such as fair grounds, trotting parks, etc., employs persons as agents to sell liquors or tobacco for the benefit of the association, at various points within the grounds or enclosure, but one special tax for the sale of liquors or tobacco, as the case may be, will be required of said association in respect of such sales; but where the privilege of making such sales is let to one or more individuals who establish several different stands where liquors or tobacco are sold, which stands are separated from each other by grounds occupied by the association or by other persons, the lessee is liable to special tax for each stand where sales are made.

Regular retail dealers in liquor or in malt liquors, or dealers in tobacco and cigars, holding special-tax stamps as such, may close their ordinary place of business for the time being, and, on the registry of the facts with the collector of the district in which the fair grounds are situate, may do business under the regular stamps at one stand in the fair grounds without payment of additional tax; but before opening again their regular place of business must make a new registry with the collector of the district in which the stamps were issued.

The special tax of a liquor dealer is not imposed upon apothecaries as to wines or spirituous liquors which they use exclusively in the preparation of making up of medicines. (Section 3246, Revised Statutes). But this section is

construed to mean medicines which cannot be used as beverages.

When a preparation, with reference to its ingredients, may be one thing or another, medicine or beverage, according to its use, the *use* gives character to it. If used or administered *bona fide* as a medicine, as a medicine it will be treated; but if persons ignore its medicinal properties and sell it to be drank as an intoxicating beverage, the act is regarded as retailing of spirituous liquors, and the seller will need to pay the tax accordingly.

A retail liquor dealer may sell out his entire stock of liquors, amounting to five gallons or more, in one parcel, without subjecting himself to special tax as a wholesale liquor dealer; or he may sell his entire stock of wines in another parcel, and his entire stock of malt liquors in another parcel, without subjecting himself to such tax.

It is a violation of the revenue laws to purchase or receive distilled spirits, in quantities greater than twenty gallons, from any person other than an authorized rectifier, distiller or wholesale liquor dealer.

Every person who violates this law is liable to forfeit the spirits and the payment of one thousand dollars fine.

SPECIAL TAX—RETAIL DEALER'S SALE OF PACKAGES AGGREGATING FIVE GALLONS.—

Where a retail dealer sells to one person a one eighth barrel of one kind of beer, a one eighth barrel of another kind, and so on, upon a single order, he subjects himself to special tax as a wholesale dealer, unless each package differs in price from the other, in which case each is regarded as the subject of a separate sale, or unless (where the beers are similar in price and quality) a separate order is given by the purchaser for each package. In either of these cases, each package is to be regarded as separately sold, and the special tax of a wholesale dealer is not required to be paid therefor.

Treasury Decision, January 6, 1899.

LIABILITY OF LIQUOR DEALER AS RECTIFIER FOR MIXING COMPOUND LIQUORS FOR SALE.—

A retail liquor dealer who, by mixing distilled spirits with other materials, manufactures compound liquors for sale, under the names "Cocktails," or "Rock and Rye," or "Rock and Gin," or any other names (even though the quantity compounded by him from time to time is less than five gallons at a time) is required to pay special tax as a rectifier under the third subdivision of section 3244, R. S., if he puts up these compounds for sale by the pint or quart bottle, or large package, and keeps the bottles or the packages of the compounds on his shelves, or in stock, ready for delivery to customers.

But, where these compound liquors are not mixed by the retail liquor dealer in advance of orders therefor, and kept in stock, or in bottles or other packages on his shelves, but he merely, at the request of a customer, and at the time when the order is given, mixes and puts up and delivers a bottle of cocktail, or rock and rye or other like mixture, it is held that this does not come within the notice of the law, and, therefore, does not necessitate the payment of special tax by the retail liquor dealer as a rectifier.

Treasury Decision, March 26, 1897.

LIQUORS MIXED IN QUANTITIES OF LESS THAN FIVE GALLONS, WHEN NOT FOR SALE, NOT TO PAY SPECIAL TAX.—

In order to meet the requirements and demands of their trade, retail dealers may reduce and sweeten their spirits in packages containing less than five gallons, if the packages they reduce in *are not for sale*, but are packages they fill and refill. They must not fill any packages of any size and put them upon their shelves ready for delivery, but may fill all bottles for delivery from these retail packages at the time their customers call for them.

Although this mixing and compounding is done by the retail liquor dealers in advance of orders, yet, as it is done merely for the convenience of the dealers and not for the purpose of selling the packages in question containing the spirits compounded, and those spirits are drawn therefrom for sale, by the jug, bottle or drink, only at the time the customer gives his order thereof, it is held that such mixing, in quantities less than five gallons, does not come within the notice of the internal revenue laws relating to rectifiers.

Treasury Decision, July 21, 1897.

MEDICINE USED AS BEVERAGE.—

One who sells a medicinal preparation, knowing that it contains an intoxicating quality, to be used as a beverage, or with

the knowledge that it was purchased to be used as a beverage, is a retail liquor dealer.

United States vs. Stames, 37 Fed. Rep. 665.

SPECIAL TAX FOR SALE OF LIQUOR ON BOAT.—

A retail liquor dealer's special-tax stamp will not be issued for sale of liquor on a boat unless such boat is at the time of issue engaged in carrying passengers.

Treasury Decision, February 7, 1898.

SPECIAL TAX TO WIFE MAY BE USED BY HUSBAND.—

A special-tax stamp taken by a woman as a retail liquor dealer, in her own name, is sufficient for the same business conducted by her husband, who takes charge of it upon her retirement therefrom; he is not required to pay special tax and take out a stamp in his own name because of the fact that a town license was refused to her, but issued to him.

Treasury Decision, May 25, 1898.

SPECIAL TAX FOR PARTNERSHIP.—

When two persons who have been carrying on business as retail liquor dealers enter into a partnership to continue the same business at a different place from that at which either party heretofore conducted it, a new special tax must be paid by the firm.

Treasury Decision, March 30, 1898.

CHAPTER III.

DISTILLERS.

DISTILLER DEFINED.—

Sec. 3247.—A distiller is one who produces distilled spirits, or who brews or makes mash, wort, or wash fit for distillation, or who separates alcoholic spirit from any fermented substance.

"SPIRITS" DEFINED.—

Sec. 3248.—Distilled spirits, spirits, alcohol, and alcoholic spirit, is a substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by fermentation of grain, starch, molasses or sugar.

PROOF SPIRITS DEFINED.—

Sec. 3249.—Proof spirit is alcoholic liquor which contains one-half its volume of alcohol of a specific gravity of .7939 at sixty degrees Fahrenheit.

TAX ON DISTILLED SPIRITS.—

Sec. 3251 *a*.—All distilled spirits are subject to a tax of one dollar and ten cents on each proof gallon or wine gallon when below proof.

COMPUTING TAX ON DISTILLED SPIRITS.—

Section 48 of the act of August 28, 1894, provides: That the tax on spirituous liquors shall be one dollar and ten cents on each proof gallon:

Provided, That in computing the tax on any package of spirits all fractional parts of a gallon less than one-tenth shall be excluded.

Thus, 40.07 proof gallons will be called 40 gallons for the purpose of taxation; 47.53 proof gallons will be called 47.5 gallons, and so on.

It is of course to be understood that when spirits are below proof the tax as heretofore attaches to the wine gallons. For example: In case of a package of spirits, when the loss is not excessive, if the contents are found to be 44.59 wine gallons and 44.15 proof gallons, the tax will be computed on 44.5 gallons.

RESTORING TO THEIR ORIGINAL PROOF DISTILLED SPIRITS WHICH HAVE INCREASED IN PROOF.—

Distillers may restore such of their product as has increased in proof, while stored in distillery warehouse, to its original proof without first qualifying as wholesale liquor dealers. Such reduction in proof must be performed on premises in the vicinity of the distillery immediately after the spirits have been duly tax-paid and removed from the distillery premises. When the restoration is thus performed by the distiller as such, the brand on the cask and the notice required to be given to the collector will be modified so as to show that the reduction was performed by the distiller.

In case the spirits increased in proof while in distillery warehouse and were regauged upon withdrawal therefrom, the owner, if he prefers, may, in the presence of the United States gauger, reduce such spirits to their original proof by the addition of distilled water.

To ascertain the amount of water necessary to reduce spirits of any given strength to proof, divide the alcohol in the given strength by the alcohol in the required strength, multiply the quotient by the water in the required strength and substract the water in the given strength from the product. The remainder is the number of gallons of water to be added to 100 gallons of liquor of the given strength to produce a liquor of the required strength. (Gaugers' Manual, Table No. 7.)

The owner will not be allowed to fill the packages above the quantity that the "natural outs" would indicate should be contained in each package, nor will he be allowed to mix any other spirits with those in the original package, or to fill one package from another of the same lot.

SUCCESSIONS AND CHANGES OF NAME AND STYLE BY DISTILLERS.—

When a nominal change occurs at a distillery, by reason of a change in the name or style in which the operations at the distillery are conducted, it is not required that the business of producing spirits shall be completely finished and operations suspended by the distiller desiring to change his name or style before commencing under the different name or style, and no notice of suspension is necessary.

When, however, a succession or actual change in the person or persons interested in the operations of a distillery takes place, the business of producing spirits must be completely finished by the person or persons first carrying on the business, and the distillery suspended, before the business shall be undertaken or begun by the succeeding distiller, unless by agreement between the parties it shall be arranged to transfer, at midnight of a certain day, all mash and beer on hand, and all unfinished spirits outside the cistern room at that hour; and, unless before the day agreed upon, the necessary distilling papers shall have been submitted to the collector and by him forwarded to the commissioner, so that the approval of warehouse for the successor, and assignment of storekeeper thereto, may be made to take effect on the day next succeeding that at the close of which the transfer is made, and the collector advised so that he may approve the bond of the new distiller on that day.

Treasury Decision, March 8, 1899.

CAPACITY TAX ERRONEOUSLY ASSESSED.—

On action upon a distiller's bond for non-payment of a

capacity tax for an entire month, the distiller may show that without any fault of his own, and by the omission of the Government, he was prevented from operating his distillery for the first four days for which he was taxed, and that his distillery was inactive from an accident and in charge of a Government officer, as prescribed by law, for four other days. A capacity tax assessed during such eight days is erroneously assessed.

Clikenbeard et al vs. United States, 21 Wall. 65.

SENDING SAMPLES DOES NOT MAKE DISTILLER LIABLE FOR TAX AS RETAIL DEALER.—

A distilling company, bottling whiskies and selling them under their special tax stamp as wholesale liquor dealers, are not required to pay special tax as retail dealers for merely sending a sample bottle of their product to an intending purchaser; but they cannot sell any such sample without subjecting themselves to a special tax as retail liquor dealers.

Reg. No. 20161, Oct, 10, 1898.

SPECIAL TAX OF DISTILERS WHO HAVE SUSPENDED OPERATIONS AND SOLD SPIRITS.—

Distillers who have discontinued operations, and, without bond as distillers, and without holding requisite special tax stamps as liquor dealers have sold their distilled spirits, should be reported for assessment of special tax and penalty. The fact however, that a person has ceased to operate his distillery does not prevent him from giving bond as a distiller there, with notice of continued suspension, to secure exemption from special tax for selling his spirits in the original stamped packages at the distillery or at the place of storage in bond.

Treasury Decision, April 7, 1898.

EXTRACTING SPIRITS FROM EMPTY PACKAGES.—

The soakage of spirits into distillers' packages, not being included in the basis of computation, is not a part of the quantity upon which the tax is levied, and consequently, when extracted from the empty barrels, it is spirits on which the lawful tax has not been paid, and is subject to taxation.

Treasury Decision, April 7, 1898.

WHEN DISTILLERS MUST PAY DEALER'S TAX.—

The only exemption from special tax as wholesale liquor dealers which the law grants to distillers is that provided by section 62 of the act of August 28, 1894, to-wit:

"That no distiller who has given the required bond and

who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages, to which the tax-paid stamps are affixed, shall be required to pay the special tax of a wholesale liquor dealer on account of such sales."

The words "in the original packages to which the tax-paid stamps are affixed" exclndes from the exemption (by the well-known rule of construction) sales of distilled spirits in any other packages than those which bear the stamp described by section 3313, Revised Statutes, denoting the payment of the tax imposed on the spirits.

The sale of distilled spirits in bottles by distillers, therefore, necessitates the payment of special tax by them as liquor dealers. Where the aggregate contents of any number of bottles disposed of at one sale by a distiller amounts to five gallons or more he is required to pay special tax as a wholesale liquor dealer.

Where he also sells the spirits by the single case containing less than five gallons, or sells any number of bottles at a time, whose aggregate contents are less than five gallons, he is also required to pay a special tax as a retail liquor dealer.

Treasury Decision, August 18, 1897.

EXCESSIVE LEAKAGE.—

The rule laid down in Circular 451 regarding excessive leakage, which prohibits the transfer of spirits from a distillery warehouse to a general bonded warehouse, and requires the immediate payment of tax on such spirits, where the loss ascertained on regauge is found to exceed by 33 per cent the loss provided for in act of August 24, 1894, and is not less than three gallons, will be observed. A smaller loss will also be regarded as excessive where the condition of the warehouse, or the cooperage of the package is such as indicates a want of proper care on the part of the distiller.

Treasury Decision, September 18, 1897.

ADDING SUBSTANCES TO CREATE FICTITIOUS PROOF.—

Sec. 3252.—Every person who adds or causes to be added any ingredient or substance to any distilled spirits before the tax is paid thereon, for the purpose of creating a fictitious proof, shall be fined and imprisoned, and every such cask, or package, with its contents, shall be forfeited to the United States.

BOND NOT LIABLE FOR TAX WHEN SPIRITS FORFEITED.—

A distiller's bond is not liable for tax due when the spirits are forfeited and sold subject to the tax.

United States vs. Ulrici, 111 U. S. 38.

DISTILLING WITHIN 600 FEET OF RECTIFYING ESTABLISHMENT PROHIBITED.—

Sec. 3280.—It is not lawful for any person to engage in the business of distilling on any premises distant less than 600 feet in a direct line from any premises used for rectifying.

BONDED WAREHOUSES TO BE ESTABLISHED.—

Sec. 3294 *a* (51).—The commissioner of internal revenue is authorized to establish in each collection district not to exceed ten general bonded warehouses, to be used exclusively for storage of spirits distilled from materials other than fruit.

WHEN DISTILLERY SEIZED MAY BE RELEASED BEFORE JUDGMENT.—

Sec. 3331.—No distillery or distilling apparatus seized for violation of law shall be released before judgment, except when bond has been given on a distillery with a producing capacity of one hundred and fifty proof gallons or more per day and on which not less than fifty head of live stock depend for their feed, which would suffer injury if the distillery stopped.

ONLY ONE WITHDRAWAL FOR TRANSPORTATION PERMITTED.—

Sec. 3294 *a* (55).—Any spirits may be withdrawn once and no more from one bonded warehouse for transportation to another bonded warehouse.

DISTILLING PROHIBITED AT CERTAIN PLACES.—

Sec. 3266.—No person shall do any distilling in any dwelling house or in any shed, yard, or inclosure connected therewith, or on any boat or vessel or in any building or on any premises where any other business is carried on, or

within six hundred feet of any premises authorized to be used for rectifying.

DISTILLER—MASH DISTINGUISHED.—

To make one a distiller because he is in possession of a still and keeps mash, wort, or wash, the mash, wort, or wash must be such as will produce spirits on distillation.

United States vs. House and Lot, No. 3 Abattoir Place, 25 Int. Rev. Rec. 319.

FERMENTING TUBS.—

Sec. 3285.—Every fermenting tub shall be emptied at or before the end of the fermenting period; no fermenting tub in a sweet-mash distillery shall be filled oftener than once in 72 hours, nor in a sour-mash distillery oftener than once in 96 hours, nor in a rum distillery oftener than once in 144 hours.

FALSE ENTRIES IN BOOKS.—

Sec. 3305.—Any false entry made, or entry required omitted from distiller's books with intent to defraud or mislead, or books not produced as required, or destroyed, with intent to defraud, subjects the distillery and premises to forfeiture to the United States.

CHANGING BRANDS.—

Sec. 3326.—No person shall change any stamp, mark or brand on any cask or package containing spirits, or put into any cask or package spirits of greater strength than indicated by the inspection marks, or fraudulently use any cask or package already marked for sale of other spirits than those originally inspected therein.

BOOKS OF DISTILLER.—

Sec. 3301.—The books of a distiller shall always be kept at the distillery and open to the inspection of any revenue officer, and shall be kept at least two years after being filled.

TRANSFER TO OTHER WAREHOUSE.—

Sec. 3291 *a* (57).—The commissioner may discontinue a warehouse when distilling has been suspended six months

in one year and the spirits remaining therein does not exceed 5,000 proof gallons, or whenever in his opinion such warehouse is unsafe or unfit for use, and, when so discontinued, order the merchandise therein transferred to such other warehouse as he may designate.

STOREKEEPER'S ABSENCE.—

Sec. 3284.—No distiller or distillery employe shall use or cause or permit to be used any material for making mash, wort, or beer, or for production of spirits, nor remove any spirit, in the absence of the storekeeper.

TAX ABATED ON LIQUORS DESTROYED.—

Sec. 3221.—The secretary of the treasury may abate unpaid taxes on distilled spirits destroyed by fire or other casualty, while in warehouse or after the time when the same should have been drawn off by the gauger and placed in warehouse, if such destruction occur without any fraud, collusion, or negligence of the owner of such spirits.

INSURANCE.—

Sec. 3223.—When the owners of distilled spirits lost or destroyed by fire or other casualty are indemnified against the tax by insurance for a sum greater than the actual value of the spirits, before and without the tax being paid, the tax shall not be remitted to the extent of such insurance.

TAX COVERED BY INSURANCE.—

An insurance policy upon whisky in bond, without reference to the Government tax, entitles the assured to include the tax in his recovery in case of loss, if the assured is liable for the tax.

Hedger vs. Union Insurance Company, 17 Fed. Rep. 498.

SPIRITS IN WAREHOUSE DESTROYED BY FIRE.—

Under a bond given by distiller and sureties, conditioned to be void if obligors paid taxes on the spirits deposited in the warehouse before their removal and within a year from date of bond. Before the expiration of the time the spirits, while in a bonded warehouse in charge of an internal revenue storekeeper, without fault or negligence on the part of dis

tiller or any person in charge of distillery or in his employ, were destroyed by fire. Held that the obligors are liable to pay taxes.

Farrell vs. United States, 9 Otto 221.

FORFEITURE OF DISTILLERY FOR ACT OF LESSEE WHEN OWNER IS INNOCENT.—

Where the owner of a distillery and other property connected therewith leased them for the purpose of distilling, the act of omission by the lessee in carrying on the business of distilling while he was in possession, and with intent to defraud the revenue, although they are unknown to the owner, subject the distillery and such other property to forfeiture to the United States.

Dobbin's Distillery vs. United States, 6 Otto 305.

OFFICER MUST NOT BE INTERESTED.—

Sec. 3168.—No revenue officer shall be interested in production, rectification or redistillation of distilled spirits, under penalty of fine and dismissal from office.

OFFICERS LIABLE FOR WRONGFUL SEIZURE.—

Sec. 3332.—In case of a wrongful seizure and destruction of distillery property the owner has a right of action on the official bond of the officer who occasioned the destruction for all damages caused thereby.

CONFUSION AND MIXTURE OF GOODS BY RECTIFICATION.—

Where distilled spirits forfeited to the United States are mixed with other distilled spirits belonging to the same person (ignorant of the forfeiture) they are not lost to the Government by such mixture on the grounds of confusion of goods or transmutation of species, even though subsequently run through leaches for the purposes of rectification, and the Government will be entitled to its proportion of the result.

The Distilled Spirits, 11 Wall. 356.

SPIRITS ON PREMISES OF RECTIFIER CANNOT BE FORFEITED FOR TAX.—

Distilled spirits owned by and found upon the premises of a rectifier or wholesale liquor dealer cannot be seized as forfeited to the United States, under section 96 of the "act imposing taxes on distilled spirits," etc. (15 Stat. 161), because such person has knowingly and willfully neglected, omitted, or refused to cause packages containing more than twenty gallons

each, filled for shipment or sale upon his premises, to be gauged, inspected and stamped in accordance with section 25 of the same act.

United States vs. Two Hundred Barrels of Whisky. 95 U. S. 571.

FORFEITURE RELATES BACK TO TIME OFFENSE WAS COMMITTED.—

The removal of distilled spirits from the place where distilled, with intent to defraud the United States of the tax thereon, was alleged as a ground for a forfeiture of the spirits. The Court held that neither the subsequent payment of the taxes nor the fact that the claimant was an innocent purchaser, without notice of the wrongful acts of the antecedent owner, constituted a defense to the charge. Even where spirits are removed to a bonded warehouse, to secure the payment of tax, which is lawful, but if made with intent to defraud the United States, the act of removal is illegal and the spirits are subject to forfeiture.

Henderson's Distilled Spirits. 14 Wall. 44.

EVADING TAX.—

Sec. 3256.—Evading or attempting to evade tax on distilled spirits subjects the person doing so to forfeiture of the spirits and to pay double the amount of tax.

CISTERNS.—

Where a distiller draws off his spirits but once in three days he must have three cisterns. He cannot, in any case, have less than two. The product of each day's distillation shall be kept separate, and where one kind of spirits only is produced it must all be run into one receiving cistern; where two or more kinds of spirits are produced, such as alcohol and high wines, or two or more grades of the same kind of spirits are produced, two or more cisterns may be used; but in no case can the product of one day's distillation be mixed with the product of another or second day. If the distiller has not provided at least two separate cisterns, each of a capacity sufficient to hold a full day's product when running at the full capacity of the distillery, the collector has no right to approve his bond.

CONTROL OF WAREHOUSE—EXAMINATION BY SAMPLE.—

The examination of spirits in warehouse by sample is allowed under the following restrictions:

The aggregate quantity removed from any cask of spirits, while in warehouse, shall not exceed a half pint.

No sample shall be taken from any package except by the owner, or by an agent upon a written order of the owner, nor shall any goods be exhibited or examined in the warehouse, except under the immediate supervision of the storekeeper in charge of the warehouse. Such storekeeper must keep a record of each sample taken in such a manner as will enable him to detect and to report with conclusive proof any attempted abuse of this privilege.

ALLOWANCE FOR WANTAGE.—

When casks are not full, only the actual wantage, as determined by the wantage rod, will be allowed. No provision is made for reporting any fraction of a gallon as wantage except a half; but a wantage of one-half gallon is not to be allowed, at time of original inspection at distilleries, other than at fruit distilleries having a daily spirit-producing capacity of not exceeding 100 gallons, except when existing to the full limit of the allowance; that is to say, where distillers do not desire to completely fill their casks or packages, the ullage must be exactly one-half wine gallon, one wine gallon, one and one-half wine gallons, or two wine gallons, according to the size of the package and the following regulations in that respect:

Accordingly, gaugers and storekeeper gaugers will decline to weigh, gauge, mark, or stamp any package inspected as above entitled to a wantage of one-half of one gallon if the same has an ullage either greater or less than exactly one-half gallon; and so on as to the higher rates of ullage allowed for larger packages.

When spirits are inspected at fruit distilleries having a daily spirit-producing capacity of not exceeding 100 gallons a wantage of one-half wine gallon will be allowed when the wantage approaches one-half gallon; that is, when the wantage is nearer one-half gallon than no wantage.

The same rule applies at such distilleries in reporting wantage greater than one-half gallon, viz., if the wantage is nearer one gallon than one-half gallon, it will be called one gallon; if three-fourths of a gallon or nearer one-half gallon than one gallon it will be called a half gallon.

STAMPS, AND ACCOMPANYING BRANDS, ON PACKAGES OF DISTILLED SPIRITS MUST BE OPEN TO INSPECTION.—

The stamps, marks, and brands required by law and regulations to be applied to casks and packages of distilled spirits are designed to bear witness to the legality of the spirits which they cover, and they must not be obscured in any manner, or covered by incasing the vessel bearing the same in another,

but must at all times be in such condition as to admit of ready examination by revenue officers.

AGING, MATURING OR PURIFYING MACHINE.—

Aging, maturing or purifying machines for liquors are permitted in distillery for continuous distillation under proper conditions.

Commissioner's Letter, November 6, 1894.

VARIETIES OF CASKS.—

Casks are classified into three varieties, and the distinction consists in the curvature of the staves at what is termed the quarter hoop; that is, at a point midway between the bung and chimb.

Those casks having the least curvature are termed the first variety, those having a medium curvature the second variety, and those having the greatest curvature the third variety.

The second variety cask is the one ordinarily in use.

Where casks are gauged as the first or third variety, the variety will be cut upon the bung stave after the proof gallons—thus, 1-V, 3-V.

Rule for finding the capacity of a cask by the use of the gauging rod.

Find the mean diameter of the first variety of casks by multiplying the difference between the head diameter and the bung diameter by the decimal 0.55 and adding the product to the head diameter, the sum being the mean diameter; of the second variety by multiplying the difference between the two diameters by the decimal 0.63 and adding the product to the head; of the third variety, by multiplying by the decimal 0.70 and adding the product to the head. Having thus found the mean diameter, multiply the square of the mean diameter, in inches, by the decimal 0.0034, which is substantially the same as dividing by 294, being the number of cylindrical inches in a wine gallon, and the product will be the wine gallons in one inch in length. Multiply this by the length in inches and the product will be the capacity of the cask in wine gallons.

TAX AND ASSESSMENTS TO BE LIENS.—

Sec. 3309. All assessments shall be a lien, from the time the assessment is made until the same shall have been paid, upon all distilled spirits on the distillery premises, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the tract of land whereon the said distillery is located, and any building thereon.

BOOK, FORM 52 C, REVISED, TO BE KEPT BY DISTILLERS.—

All spirits will be entered upon the book on the day the same are withdrawn from the distillery warehouse, which date

will be entered under the head of "Date when sent out." The name of the person, firm or corporation to whom sent and place of business will be entered in the appropriate spaces under "To whom sent," and "Place of business." In case the spirits are removed to the distiller's free warehouse, or to a general bonded warehouse, or for exportation, or for use of the United States, or for scientific purposes, the fact will be made apparent under said headings, as for example: "To New York for export," or "To General Bonded Warehouse No. 1, First Dist. of Ohio."

The kind of spirits as known to the trade as marked on the stamp head of the cask will be entered under "Kind of spirits." Under "By whom and when inspected" will be entered the date of the last official inspection made in the distillery warehouse and the name of the officer who performed the same. Under "Number of gallons" will be enterd the contents of the cask in wine and proof gallons, as shown by such inspection.

In case spirits are withdrawn for scientific purposes, or for use of the United States, the date of the permit will be entered under the head, "Serial number and kind of stamps."

No entry is required to be made on this book when spirits are sold in bond on warehouse receipts. The first entry in such cases will be made on this book by the distiller, and on Form 52 by the purchaser of the spirits, when the same are withdrawn from the distillery warehouse.

A distiller delivering spirits elsewhere than at the place of manufacture becomes liable as a dealer at such place of delivery, and must keep the book (Form 52) thereat. Hence a distiller can only make sale of his spirits away from the place of manufacture by paying tax as a liquor dealer, or through an authorized liquor dealer.

No distilled spirits on which the tax has been paid are allowed by law to be restored or to remain on any distillery premises under penalty of forfeiture of all spirits so found.

Whenever the contents of two or more casks of spirits are united in distillery warehouse for exportation, under the provisions of section 1, act of June 9, 1874, as amended by section 10, act of March 1, 1879 (section 3330*a*, compilation of 1891), the said casks will be fully described in the distiller's book (Form 52 C, revised) as usual, and under the head of "To whom sent" and "Place of business" will be written the words "Contents transferred to cask bearing export stamp No. —," entering in the blank space the number of the export stamp affixed to the cask to which the spirits were transferred.

In the event that the contents of a cask are transferred to two or more casks, the entry will be modified accordingly, and the export stamp on the cask receiving the greatest bulk of the spirits will be given first, and so on.

CHAPTER IV.

BOTTLING IN BOND.

BOTTLING IN BOND.—

The act for bottling in bond, approved March 3, 1897, provides as follows:

That spirits deposited in the warehouse of a distillery of the daily capacity of twenty bushels of grain or more, which have been duly entered for withdrawal on payment of tax, or for export in bond, and which have been properly gauged, marked, branded and stamped, if the purpose so to do has been declared in such entry, may be removed to a separate portion of such warehouse, to be used exclusively for that purpose, and drawn off, bottled, packed and cased.

Any number of packages of spirits of the same kind, produced at the same distillery by the same distiller, may be mingled in the same cistern, but different products or the same product of different seasons must not be mingled.

The addition or subtraction of any substance or material and the use of any method or process to change or alter the character of the product are forbidden.

Each bottle when filled must be properly stamped and packed into cases of six bottles, or multiples thereof, and each case shall contain not less than two or more than five gallons and must be stamped and branded before removed from warehouse.

No trade-marks can be put on any bottle unless the real name of the actual distiller is also placed conspicuously on the bottle.

The distiller may remove charcoal or other sediment by straining through cloth, felt, or other like material.

The spirits may be reduced by the addition of pure water to 100 per cent proof for domestic use and to 80 per cent proof for export.

Upon reinspection at the port of entry, if any case bottled for export is found to have been opened or tampered with, the tax on such case must be paid.

All spirits intended for export under this act shall be inspected, bottled, cased, weighed, marked, labeled, stamped or sealed in such manner and at such time as the commissioner may prescribe.

No drawback shall be allowed or paid on any spirits bottled under this act.

The provisions of this act may be made to apply to the bottling and casing of fruit brandy in special bonded warehouse.

THE REGULATIONS FOR BOTTLING IN BOND.—

No material or substance of any kind other than pure water can be added to the spirits during the process of bottling, nor can any substance or material be subtracted from the spirits, except that charcoal sediment or other like substances may be removed by straining them through cloth, felt, or other like material; nor can any method or process be applied to alter or change in any way the original condition or character of the product, except as authorized by the statutes.

The blank space in the bottle stamps, which must cover the mouth of the bottle, must contain the registered distillery number, the real name of the *bona fide* distiller, the state and district, the proof of the spirits, the year and distilling season, whether spring or fall, and the date of the original inspection or entry into bond, and of bottling. And every bottle shall contain the full quantity which its size imports.

A cautionary notice against the re-use of a bottle without destroying the stamp is required to be affixed to each bottle, the penalty for the violation of which is not less than $100 nor more than $1,000, and imprisonment for more than two years.

The proprietor of any special bonded warehouse who may desire to bottle, on behalf of the owners thereof, fruit brandy deposited in the warehouse, or to afford opportunity for the owners to bottle the same, may do so, upon approval of their application, under the same requirements and restrictions as are prescribed for bottling spirits at distillery warehouses.

The act prescribes that the real name of the actual *bona fide* distiller is required to be burned on the Government side of the packing case, and no trade-mark will be allowed to be placed on the bottle unless the real name of the distiller is also conspicuously placed upon it.

The purpose of this requirement is interpreted to be that

spirits bottled in bond shall bear the name in which the distiller, whether an individual or a firm, ordinarily or usually conducts his or its business and holds himself or itself out to the public, and not in the name, or in any of the names, in which the person or firm may have temporarily qualified as distiller during the production of some limited quantity of spirits.

Cases of spirits intended for export are required to be wired and sealed, and, as a further preventative against fraud, they are required to be opened and contents examined by customs officers at the port of exportation.

EXTENSION OF TIME FOR BOTTLING, CASING AND REMOVING SPIRITS.—

Regulations concerning bottling distilled spirits in bond are modified so as to permit more than one day to complete bottling the contents of one tank, casing the same and removing them from the warehouse, when, by reason of filling small bottles, or for any reason beyond the control of the distiller, it is impossible to complete the whole operation in one day. But the time must not exceed three days, nor can any tank containing spirits of a different kind or season be unlocked and spirits drawn therefrom until all spirits in the tank previously opened have been bottled, cased and removed.

Treasury Decision, January 7, 1899.

TIME FOR COMPLETING PROCESS OF BOTTLING IN BOND.—

A distiller whose process requires more than one day for its completion is permitted to hold the spirits in any bottling tank for such number of days as he may deem requisite, not exceeding six, reckoned from and including the day of removal to the bottling warehouse, without regard to the number of tanks provided or to the period more generally employed by the distiller. But in any case the spirits shall be kept securely locked in a bottling tank, as by regulations required, and shall be bottled, cased and removed at or before the close of the sixth day.

Treasury Decision, Feb. 19, 1898.

BOTTLING RE-IMPORTED SPIRITS NOT PERMITTED UNDER ACT OF MARCH 3, 1897.—

Spirits which have been withdrawn from a distillery warehouse or from a special bonded warehouse for exportation and exported in bond and afterward re-imported, cannot be returned

to the warehouse from which they were originally exported for bottling or for any other purpose.

Treasury Decision, August 30, 1897.

STAMPS NOT REPRESENTING TAXES WILL NOT BE REDEEMED.—

Case stamps issued for distilled spirits bottled in bond will not be redeemed. They are prepared and furnished to distillers on their orders and for their benefit. The commissioner has only authority to redeem such stamps as are issued for the payment of a tax, or used as evidence of and receipt for the payment thereof.

Treasury Decision, October 28, 1897.

USING UNDERSIZED BOTTLES OR UNDERFILLING BOTTLES PROHIBITED.—

Every bottle filled in bonded warehouse must contain the quantity of spirits which, by its nominal size, by its stamp, and by the stamp and brand upon the case, it purports to contain, under penalty of forfeiture.

Treasury Decision, October 6, 1897.

CONTENTS OF CASKS REMOVED TO THE BOTTLING WAREHOUSE TO BE DRAWN OFF.—

All casks of spirits removed from the distillery warehouse to the bottling warehouse must be emptied on the day within which they are removed from the distillery warehouse.

Treasury Decision, July 28, 1897.

BOTTLING IN BOND—DISPOSITION OF BOTTLES CONTAINING REMNANTS.—

Where the spirits remaining in the bottling tank are found to be less than the quantity necessary to constitute a full case of bottled spirits, the spirits so remaining should be at once drawn off and bottled; and, in case the spirits were intended for export, the same may be disposed of in the manner provided for in article 4 of Regulations, Series 7, No. 23.

In case the spirits so remaining have been removed to the bottling room upon payment of tax, the same may be stamped and cased with the other tax-paid spirits of a like age and proof. But, unless so disposed of, and within six days from the time of bottling, all such spirits must be removed from the distiller's premises in *unstamped bottles*, at the expiration of that period.

Treasury Decision, August 13, 1897.

CHAPTER V.

SPECIAL TAXES.

Special Taxes.

	Rate of tax.
Rectifiers of less than 500 barrels a year	$100.00
Rectifiers of 500 barrels or more a year	200.00
Retail liquor dealers	25.00
Wholesale liquor dealers	100.00
Retail dealers in malt liquors	20.00
Wholesale dealers in malt liquors	50.00
Manufacturers of stills	50.00
and for stills or worms, manufactured, each	20.00
Brewers, annual manufacture less than 500 barrels	50.00
annual manufacture 500 barrels or more	100.00
Custom-house brokers	10.00
Commercial brokers	20.00
Entry of goods, wares, and merchandise in custom-house, not exceeding $100 in value	.25
Exceeding $100 and not exceeding $500	.50
Exceeding $500 in value	1.00
Entry for withdrawal of goods or merchandise from customs bonded warehouse	50
Warehouse receipt for goods, merchandise, or property held on storage except agricultural products deposited by actual grower	.25
DISTILLED SPIRITS.	
Distilled spirits, per gallon	1.10
Wines, liquors, or compounds known or denominated as wine, and made in imitation of sparkling wine or champagne, but not made from grapes grown in the United States, and liquors, not made from grapes, currants, rhubarb, or berries grown in the United States, but produced by being rectified or mixed with distilled spirits or by the infusion of any matter in spirits, to be sold as wine, or as a substitute for wine, in bottles containing not more than one pint, per bottle or package	.10
Same in bottles containing more than 1 pint, and not more than 1 quart, per bottle or package	.20
(And at the same rate for any larger quantity of such merchandise however put up, or whatever may be the package).	
Stamps for distilled spirits intended for export, for expense, etc. of, each	.10
Stamps for cases of spirits bottled in bond, for each	.10
Stamps upon each bottle of sparkling or other wine containing 1 pint or less	.01
Stamp upon each bottle containing more than one pint	.02
FERMENTED LIQUORS.	
Fermented liquors, per barrel, containing not more than 31 gallons	2.00
(And at a proportionate rate for halves, thirds, quarters, sixths, and eighths of barrels.)	
More than one barrel of 31 gallons, and not more than 63 gallons, in one package	4.00

LIQUORS MAY BE SOLD WITHOUT SPECIAL TAX BY CONSTRUCTIVE CONSIGNMENT TO AN AUTHORIZED DEALER.—

No liability for special tax as liquor dealer is incurred by owner of liquors consigning the same to an authorized liquor dealer to sell for him, on commission or otherwise.

WOOD ALCOHOL NOT TAXED.—

The special tax of a liquor dealer is not required to be paid for the sale of wood alcohol (methyl alcohol) if the wood alcohol is entirely free from admixture with the alcoholic liquor defined by Section 3248, Revised Statutes, as ethyl alcohol.

Reg. 20870, March 14, 1899.

SPECIAL TAX MUST BE PAID FOR SELLING LIQUOR AS A MEDICINE.—

The sale of beer (or of distilled spirits, wine, or other alcoholic liquor), which has not been combined with drugs or other medicinal substances, involves the seller in special tax liability under the internal revenue laws, and he cannot escape this liability by showing that the liquor was sold under a label as a medicine.

Treasury Decision, March 14, 1898.

LIABILITY FOR THE SALE OF BRANDY PEACHES, BRANDY CHERRIES, AND OTHER FRUITS PRESERVED IN SPIRITS.—

If there are any brandy peaches, brandy cherries, etc., which are recognized by the wholesale grocer trade (as contradistinguished from the alcoholic liquor trade) as legitimate articles of preserves, special tax is not required to be paid, under the internal revenue laws of the United States, for the sale, by wholesale grocers, of these articles. But when grocers sell by retail (by the bottle) brandy cherries or brandy peaches knowingly to persons who buy them, not for the fruits but for the alcoholic liquor contained in the bottles, and for the purpose of making use of this liquor as a beverage, they subject themselves to special tax as retail liquor dealers, and also involve themselves in liability to criminal prosecution.

Treasury Decision, February 2, 1898.

TAX REQUIRED FOR MANUFACTURE OF IMITATION CIDER.—

(1) That cider made from the pure juice of apples only, to which neither spirits, wine, nor any other alcoholic liquor has been added, even though "from the natural fermentation it has become somewhat alcoholic and resembles a very mild wine," does not come under the head of "distilled spirits, wines, or malt liquors," the only liquors for the sale of which special tax is re-

quired to be paid under the internal revenue laws of the United States, and therefore no special tax stamp is required to be taken out, under these laws, for the sale of such cider.

(2) Beverages called "cider" which are not made from "apples," but are "the fermented juice of some other fruit," to which neither spirits, wines, nor alcoholic liquors of any kind have been added, are, in contemplation of the internal revenue laws, not cider, but wine, and persons selling them are required to pay special tax as liquor dealers.

(3) Beverages, under whatever name sold, which are "compounded with water, syrups, alcohol and fruit flavors," are compounds of distilled spirits within the meaning of the third paragraph of Sec. 3244 R. S., and persons making them for sale are required to pay special tax as rectifiers, and also special tax as liquor dealers for selling them, and all other persons who sell them are required to pay special tax as liquor dealers.

Treasury Decision, 1890.

RECTIFIERS.—

Rectifiers who have paid special tax as "Rectifiers of less than 500 barrels," and who, during the same special tax year, desire to increase their product, should make application to the Collector of Internal Revenue for a new special tax stamp of the denomination of $200.

The payment of a special tax by a rectifier confers no right to sell spirits either of his own rectification or otherwise. To enable him to sell, the rectifier must pay a special tax as dealer, either wholesale or retail, or both, according to the quantities which he may desire to sell.

Manufacturers of wine from grapes grown in the United States are held not to incur special tax as rectifiers by reason of injecting carbonic-acid gas into such wine, or adding to the wine proof spirits necessary to its preservation, not exceeding ten per cent, or rock candy.

Purely medicinal bitters must be stamped under Schedule A; but alcoholic bitters, sold or used as beverages, can only be made by rectifiers.

Liquors put up and exposed for sale bearing labels such as Medicated Bourbon Whisky, Port Wine Medicated, Peach Brandy Bitters, with nothing else upon the label except the dose prescribed, even though stamped under Schedule A, are not so taken from the category of beverages and liquors and placed in the category of medicinal articles as to relieve the vendor from the liability to pay special tax as a liquor dealer, or the person who prepares them from special tax as a rectifier.

Should a rectifier wish to dump a package from which a portion of the spirits have been sold by him as a wholesale liquor dealer, he will make application on Form 92 for a stamp to cover the spirits remaining in the package, and attach said stamp as hereinbefore required.

He will then transfer such package to himself as a rectifier, reporting such transfer on his book (Form 52), after which the notice on Form 122 may be given in the usual manner.

The addition to distilled spirits of any coloring matter or foreign substance which in any way changes the character of the spirits or remains, incorporated therein, is regarded as rectification.

A rectifier who is also a retail dealer may transfer the goods, rectified by himself as a rectifier, to himself as retail liquor dealer, without rendering himself liable as a wholesale liquor dealer.

A distiller of grape brandy is not authorized to mix spirits produced from grain in his product, except as a rectifier.

WHEN TAX DUE.—

Sec. 3237.—All special taxes become due on the first of July in each year, or at the time of commencing business. In the former case tax must be paid for one year and in the latter case from the first day of the month in which the business is commenced to the first day of July following.

MUST PAY TAX BEFORE COMMENCING BUSINESS.—

Sec. 3242 *a*.—No person shall carry on the business of a rectifier, wholesale or retail liquor dealer, wholesale or retail dealer in malt liquors, or manufacturer of stills, without first paying the special tax, or the business of distiller without first giving the required bond, under penalty of fine not exceeding $5,000 and imprisonment not exceeding two years, and forfeiture of property.

TAX MUST BE PAID BY LAST DAY OF MONTH.—

Every special taxpayer making a sworn return on Form 11 within a calendar month, when his liability began, thereby escaping 50 per cent. penalty, must pay the tax not later than the last day of that month. If he postpones payment to a later period he becomes liable to criminal prosecution.

Treasury Decision, October 19, 1898.

RETURN REQUIRED FROM PERSONS LIABLE TO TAX.—

Every person or firm liable to special tax, must, before commencing business, file, and thereafter while thus liable, not later than the 30th day of June of each year, again file with the collector, or deputy collector, a sworn return on Form 11, and pay to such officer the amount of the tax, when he will be furnished with a *special tax stamp*, which must be at all times conspicuously displayed in his or their place of business.

ONLY ONE TAX FOR CO-PARTNERSHIP.—

Sec. 3234.—Any number of persons in co-partnership, doing business at one place, need pay but one special tax.

TAX FOR EACH PLACE.—

Sec. 3235.—The payment of one special tax does not cover business at more than one place, but goods may be stored in other places.

LIQUOR DEALER MUST PAY TAX FOR EACH PLACE OF BUSINESS.—

Where a place of business is established at which offers to sell liquors are made, special tax is required to be paid therefor, even though no stock of liquors is kept there and the orders received there are sent to another place and there filled, and the liquors are shipped from the latter place directly to the persons ordering.

Treasury Decision, January 17, 1899.

INTERNAL REVENUE STAMPS ARE REDEEMABLE ONLY FROM PROPER PERSONS.—

Collectors of internal revenue are the only persons authorized to sell stamps, and they are prohibited from selling them to other than manufacturers of or dealers in specified articles, who are required to affix the same to said articles as evidence of the payment of taxes due thereon. Such manufacturers or dealers are not authorized to sell these stamps or to use them for any purpose other than that provided by law. They, or their legal representatives, may have such stamps redeemed or an allowance made therefor, under the conditions and in the manner prescribed by law, but such redemption or allowance must be based upon the legal rights of the holder of such stamps and his possession of them for authorized purposes. If he purchased them from one not authorized to sell them, or acquired them in any manner not contemplated by law, or for a use or purpose not prescribed

by law, he has no legal claim against the Government for their redemption.

Treasury Decision, April 8, 1898.

DEATH OR REMOVAL OF TAXPAYER.—

Sec. 3241.—In case of death of the person paying special tax, his wife, child, or other representative may carry on the business for the residue of the term for which the tax is paid. And in case of removal to another place the person may carry on his business at such new place without paying more tax.

NO ADDITIONAL TAX FOR CHANGE OF FIRM.—

No additional special tax is required to be paid in case of change of firm, one or more of its members succeeding to and carrying on the business at the same place.

United States vs. Davis, 35 Int. Rev. Rec. 46.

CANNOT RESTRAIN COLLECTION OF TAX.—

Sec. 3224.—No suit to restrain the assessment or collection of any tax can be maintained in any court.

LIEN FOR TAXES.—

Sec. 3186.—If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount shall be a lien in favor of the United States from the time when the assessment list was received by the collector, except when otherwise provided, until paid, upon all property and rights to property belonging to such person.

WHAT LIEN FOR TAXES COVERS.—

It is not only a lien upon the land, but also upon the personal property. It is not only upon property in possession, but upon all rights to property depending upon contracts and upon unexecuted contracts.

United States vs. Pacific R. R., 4 Dillon 71.

LIMITATION OF ACTION FOR RECOVERY OF TAXES.—

Sec. 3227.—No suit or proceeding for the recovery of any internal tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been

collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, shall be maintained in any court unless the same is brought within two years next after the cause of action accrued.

CHAPTER VI.

GENERAL LAWS AND REGULATIONS.

INTERNAL REVENUE COLLECTION DISTRICTS IN THE UNITED STATES, WITH LOCATION OF COLLECTORS' OFFICES.

ALABAMA.—Collector's office, Birmingham.

ALASKA.—Consolidated with Oregon, collector's office, Portland, Oreg.

ARIZONA.—Consolidated with New Mexico. Collector's office, Santa Fe, N. Mex.

ARKANSAS.—Collector's office, Little Rock.

CALIFORNIA.—First district, collector's office, San Francisco; fourth district, Sacramento.

COLORADO.—Collector's office, Denver.

CONNECTICUT.—Collector's office, Hartford.

DELAWARE.—Consolidated with Maryland. Collector's office, Baltimore, Md.

DISTRICT OF COLUMBIA.—Consolidated with Maryland. Collector's office, Baltimore, Md.

FLORIDA.—Collector's office, Jacksonville.

GEORGIA.—Collector's office, Atlanta.

IDAHO.—Consolidated with Montana. Collector's office, Helena, Mont.

ILLINOIS.—First district, collector's office, Chicago; fifth district, Peoria; eighth district, Springfield; thirteenth district, Cairo.

INDIANA.—Sixth district, collector's office, Lawrenceburg; seventh district Terre Haute.

INDIAN TERRITORY.—Consolidated with Kansas. Collector's office, Leavenworth, Kansas.

IOWA.—Third district, collector's office, Dubuque; fourth district, Burlington.

KANSAS.—Collector's office, Leavenworth.

KENTUCKY.—Second district, collector's office, Owensboro; fifth district, Louisville; sixth district, Covington; seventh district, Lexington; eighth district, Richmond.

LOUISIANA.—Collector's office, New Orleans.

MAINE.—Consolidated with New Hampshire. Collector's office, Portsmouth, N. H

MARYLAND.—Collector's office, Baltimore.

MASSACHUSETTS.—Collector's office, Boston.

MICHIGAN.—First district, collector's office, Detroit; fourth district, Grand Rapids.

MINNESOTA.—Collector's office, St. Paul.

MISSISSIPPI.—Consolidated with Louisana. Collector's office, New Orleans, La.

MISSOURI.—First district, collector's office, St. Louis; sixth district, Kansas City

MONTANA.—Collector's office, Helena.

NEBRASKA.—Collector's office, Omaha.

NEVADA.—Consolidated with fourth district of California. Collector's office Sacramento, Cal.

NEW HAMPSHIRE.—Collector's office, Portsmouth.

NEW JERSEY.—First district, collector's office, Camden, fifth district, Newark.

NEW MEXICO.—Collector's office, Santa Fe.

NEW YORK.—First district, collector's office, Brooklyn; second district, New York; third district, New York; fourteenth district, Albany; twenty-first district Syracuse; twenty-eighth district, Rochester.

NORTH CAROLINA.—Fourth district, collector's office, Raleigh; fifth district, Salisbury.

NORTH DAKOTA.—Consolidated with Nebraska. Collector's office, Omaha, Neb.

OHIO.—First district, collector's office, Cincinnati; tenth district, Toledo; eleventh district, Springfield; eighteenth district, Cleveland.

OKLAHOMA.—Consolidated with Kansas. Collector's office, Leavenworth, Kas.

OREGON.—Collector's office, Portland.

PENNSYLVANIA.—First district, collector's office, Philadelphia; ninth district, Lancaster; twelfth district, Scranton; twenty-third district, Pittsburg.

RHODE ISLAND.—Consolidated with Connecticut. Collector's office, Hartford Conn.

SOUTH CAROLINA.—Collector's office, Columbia.

SOUTH DAKOTA.—Consolidated with Nebraska. Collector's office, Omaha, Neb.

TENNESSEE.—Second district, collector's office, Knoxville; fifth district, Nashville.

TEXAS.—Third district, collector's office, Austin; fourth district, Dallas.

UTAH.—Consolidated with Montana. Collector's office, Helena, Mont.

VERMONT.—Consolidated with New Hampshire. Collector's office, Portsmouth, New Hampshire.

VIRGINIA.—Second district, collector's office, Petersburg; sixth district, Lynchburg

WASHINGTON.—Consolidated with Oregon. Collector's office, Portland, Oreg.

WEST VIRGINIA.—Collector's office, Parkersburg

WISCONSIN.—First district, collector's office, Milwaukee; second district, Madison.

WYOMING.—Consolidated with Colorado. Collector's office, Denver, Colo.

CAUSES OF FORFEITURE.—

(BESIDES, IN MOST CASES, A LIABILITY TO FINE AND IMPRISONMENT.)

Distillers and wholesale Liquor Dealers.

All Distilled Spirits, Wines and Other Apparatus, and the Distillery Premises shall be Forfeited:

1. For doing business without giving bond, as required by law. 3242 *a*.)

2. For refusal to give new bond. (3260.)

3. For defrauding or attempting to defraud the government of its tax. (3257, 3281, 3453.)

4. For refusal or omission to keep the required books.

5. For making false entries in the required books.

6. For obliterating or canceling entries in the required books.

7. For the refusal to produce said books for the inspection of revenue officers. (3305.)

8. For carrying on the business of distiller after having given notice of intention to suspend. (3310.)

9. For removing or concealing distilled spirits with intent to defraud. (3450.)

10. Tax-paid spirits found on the distillery premises. (3288.)

11. Packages of distilled spirits not having thereon the proper gauge, marks, stamps and brands. (3289, 3323.)

12. Distilled spirits unlawfully removed from the distillery or from the distillery warehouse. (3299, 3453.)

13. Distilled spirits removed after sunset and before sunrise. (3327.)

14. Distilled spirits shipped or removed under a false name. (3449.)

15. Packages of spirits having thereon imitation stamps or counterfeit stamps. (3316 *a*.)

16. Distilled spirits shipped for export, and voluntarily relanded in the United States. (3330.)

17. Adding any substance to create fictitious proof. (3252.)

18. Emptied packages having thereon the marks, stamps and brands. (3324, 3455.)

All Horses, Carts, Boats and other Conveyances shall be Forfeited:

1. Used in unlawfully removing distilled spirits. (3327.)

2. Used in conveying emptied packages having the stamps, marks and brands thereon. (3324.)

3. Used in carrying material to a distillery which has not up the required sign. (3279.)

4. Any vessel on which distilled spirits have been shipped for export, and from which such spirits have been voluntarily relanded in the United States. (3330.)

5. Whose owner, agent or master connives at any change in spirits exported on his vessel (3330); or

6. Who knowingly abets the fraudulent collection of drawback on spirits shipped on his vessel. (3330.)

Rectifiers.

1. Rectifiers, who carry on their business without having paid the special tax, forfeit all distilled spirits, wines, apparatus, and personal property found on the rectifying premises. (3281.)

2. Packages of rectified spirits sent out without being gauged, marked and stamped as required by law, are also forfeited. (3323, 3232, 3456.)

HOW TO ASCERTAIN TAXABLE GALLONS ON REGAUGE—EXAMPLES.—

(1) A package, the original contents of which were 50 wine gallons, 50 proof gallons, and 50 taxable gallons, when regauged after remaining in warehouse 35 months is found to contain 45 wine gallons and 45 proof gallons. The taxable gallons in this case are 45, and the tax-paid stamp will represent 45 gallons.

(2) A package, the original contents of which were the same as the foregoing, remaining in warehouse the same length of time, is found upon regauge to contain only 40 wine and 40.40 proof gallons. The maximum allowance in this case is 7.50 proof gallons. Deducting this amount from the original proof gallons leaves 42.50 proof gallons and 42.5 taxable gallons.

(3) A package, original contents and period in warehouse same as foregoing, is found on regauge to contain 46 wine gallons, 45.08 proof gallons. The taxable gallons contents are 46.

(4) A package, original contents 45 wine gallons, 45.45 proof gallons, 45.4 taxable gallons, upon regauge, after remaining in warehouse 30+ months, is found to contain 37 wine gallons, 37.37 proof gallons. The loss in this case being excessive, the loss allowed by law (7 gallons) being deducted from the original proof gallons contents gives 38.45 proof gallons, or 38.4 gallons on which the tax is to be paid.

(5) A package of 38 gallons' capacity, containing originally 52.50 proof gallons, when regauged, after remaining in warehouse

3+ months, is found to contain 51.43 proof gallons. The statute permits an allowance of only 0.75 of a proof gallon for the loss in this case, as the capacity of the cask is less than 40 wine gallons; therefore, the tax should be paid on 51.75 proof gallons, the taxable gallons being 51.7.

It will be observed that in cases where the loss exceeds the statute limit the proof gallons upon which tax is due may be ascertained by deducting the maximum allowance from the actual loss and adding the remainder to the present proof gallons contents. Thus, referring to example No. 2 above, 9.60—7.50= 2.10; 2.10+40.40=42.50.

SHORTAGE IN PACKAGES OF LIQUORS.—

Certain packages of whisky were inspected and gauged at the distillery, marks and brands placed thereon by the United States gaugers, and the taxes paid. Upon being regauged, some months later, at another place, it was found that there was a shortage in each package, and that the contents of each package were below the proof indicated by the marks. Held, that these facts were no evidence that the United States had been in any manner defrauded, and did not justify the forfeiture of the whisky, under § 3289.

U. S. vs. Fourteen Packages of Liquor, 5th U. S. Circuit Court, 1895.

SPECIAL TAX—INGWER LIQUEUR.—

Ingwer liqueur, composed of alcoholic liquor and sugar, with a flavoring of ginger, is not a medicine under whatever label it may be sold, but belongs in the general class of liqueurs or cordials, for the manufacture of which for sale the special tax of a rectifier must be paid, and for sale of which the special tax of a liquor dealer.

Treasury Decision, January 4, 1899.

LIST OF TAXPAYERS KEPT.—

Sec. 3240.—Collectors are required to keep conspicuously in their offices for public inspection, an alphabetical list of the names of all persons paying special taxes in their districts.

SPECIAL TAX RECORDS CANNOT BE USED AS EVIDENCE IN STATE COURTS.—

Records in a collector's office relating to special taxpayers are based on returns made by those persons under compulsion of law for the sole purpose of raising revenue for the United States.

Collectors are not permitted to send out these records, or copies thereof for use against the special taxpayers in cases not arising under the laws of the United States.

Treasury Decision, Feb. 25, 1898.

IMITATION STAMP.—

Sec. 3316 *a*.—No person shall affix or cause to be affixed to or upon any cask or package containing or intended to contain, distilled spirits any imitation stamp, label, device, or token, in the similitude or likeness of, or that has the resemblance or general appearance of any internal revenue stamp required by law, on penalty of forfeiture of the goods and fine and imprisonment.

STAMPS MUST BE POSTED.—

Sec. 3239.—All stamps denoting the payment of special taxes must be kept conspicuously posted in the place of business taxed, under penalty equal to tax and costs.

DUPLICATE STAMPS FOR PACKAGES OF SPIRITS FROM WHICH STAMPS HAVE BEEN LOST OR DESTROYED.—

Section 3315, Revised Statutes, authorizes the Commissioner of Internal Revenue, under such regulations as he may prescribe, with the approval of the Secretary of the Treasury, to issue stamps for restamping packages of distilled spirits which have been duly stamped, but from which the stamps have been lost or destroyed by unavoidable accident.

CASKS.—

Sec. 3325.—No person shall buy or sell any cask or package with the inspection marks thereon, after the same has been used for distilled spirits.

OFFICER MUST NOT DIVULGE SECRETS.—

Sec. 3167.—No officer or employe of the United States shall divulge or make known in any manner, except as provided by law, the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of in-

come or profits, losses, or expenditures, shown in any return, under penalty of fine not exceeding $1,000, or imprisonment not exceeding one year, and dismissal from office.

SIGNS.—

Sec. 3279.—Distillers, rectifiers and wholesale liquor dealers shall keep conspicuously posted on the outside of their place of business a plain sign with the name of the firm and business. The letters on such sign must be not less than three inches in length and of a proportionate width, painted in oil colors or gilded.

FALSE SIGNS.—

Sec. 3279.—No one not a distiller, rectifier or wholesale liquor dealer who has complied with the law, shall put up any sign indicating that he is authorized to carry on such business.

FALSE NAME OR BRAND.—

Sec. 3449.—No person shall ship, transport, or remove any spirituous or fermented liquors or wines under other than the proper name or brand known to the trade, under penalty of forfeiture and fine.

REMEDY IN CASE OF ILLEGAL ASSESSMENT.—

The proper course, in a case of illegal taxation, is to pay the tax under protest or with notice of suit, and then bring an action against the officer who collected it. The statute law of the United States, in express terms, gives a party who has paid a tax under protest the right to sue for its recovery.

Pollock vs. Farmers' Loan & Trust Co., 158 U. S. 609.

OFFICERS MAY ENTER PREMISES—OBSTRUCTING OFFICERS—PENALTY.—

Sec. 3177.—Any collector, deputy collector, or inspector may enter, in the daytime, any building or place where any articles or objects subject to tax are made, produced, or kept within his district, so far as it may be necessary, for the purpose of examining said articles or objects. And any owner of such building or place, or person having the agency or

superintendence of the same, who refuses to admit such officer, or to suffer him to examine such article or articles, shall, for every such refusal, forfeit $500.

PROPRIETORS MUST NOT EJECT OFFICERS.—

Officers must have free and peaceable egress as well as ingress to the places where they are authorized to make examination, and the proprietors have no right to eject them.

United States vs. Mosely, 15 Int. Rev. Rec. 8.

CHAPTER VII.

REGULATIONS REVERSED BY COURTS.

REDUCTION IN PROOF DOES NOT REQUIRE CHANGE OF ORIGINAL STAMPS, ALTERATION OF MARKS AND STAMPS.—

John Bardenheier was arrested for violation of internal revenue laws in that he had obliterated a portion of the government inspection mark on certain barrels of distilled spirits and had used casks having thereon United States internal revenue inspection marks, showing distilled spirits of 105 degrees proof to be contained therein, for the purpose of selling distilled spirits of 102 degrees proof.

On demurrer to the indictment Judge Thayer of the United States District Court for Missouri held:

(1) The "obliteration" of a portion of a government inspection mark or stamp is a "change or alteration" thereof, within the meaning of Revised Statutes United States, section 3326.

(2) An information for using casks or packages previously inspected for the sale of other spirits, or spirits of different quality from those contained in them at the time of inspection, must show that the change was brought about by filling them with other spirits after the original contents, or a part thereof, had been withdrawn. The reduction in proof may have been due to natural causes or to the addition of water, in which cases no wrong would be done the government. The penalty is imposed for the doing of some act whereby the government is or may be defrauded.

See 5 Fed. Rep. 188, and also 14 Fed. Rep. 569.

PROOF CAN BE REDUCED WITHOUT CHANGING THE GAUGE APPEARING ON ORIGINAL STAMP.—

A. Graf & Co. of St. Louis, Mo., withdrew a package of distilled spirits as containing 36½ gallons of 107 proof, and it was so marked. Subsequently, on being gauged by a revenue officer, it showed 33½ gallons at 101 proof and was not remarked. Action was brought in United States District Court of Illinois to forfeit the case under section 3289 of United States Revised Statutes. The case was dismissed and the package released to the owners by Judge Allen, who held:

(1) Congress has laid down the law defining the marks and stamps that shall be placed on packages of distilled spirits at the time they are produced and withdrawn, and has neither prohibited the reduction in proof or volume of spirits in the original package, nor provided for any additional marks in the event it is reduced.

(2) The commissioner of internal revenue cannot by regulation require such additional marks, and the original marks and stamps are still the proper marks and stamps for such a package.

WHISKY MAY BE SHIPPED IN AN UNMARKED AND UNBRANDED OVERCASK.—

Stege & Coldeway of Louisville, Ky., shipped whisky in a properly branded keg inside a sugar-barrel to Salem, Ind., and were indicted in United States Circuit Court at Indianapolis for violation of United States Revised Statutes, section 3449. The indictment was quashed.

The Court held:

(1) Section 3449, R. S., is highly penal and must be strictly construed. The keg of whisky was a lawful subject of commerce. The government had no further claim upon or interest in it. The statute does not make it an offense to ship goods which are lawful subjects of commerce simply because they are shipped in an unmarked or unbranded box or barrel, if the contents inclosed therein have paid the proper tax, and the proper name or brand known to the trade as designating the kind and quality of the contents is affixed upon the cask or package within such box or barrel.

(2) The purpose of the act was to prevent the use of a false name or brand in making shipment, and the having no name or brand is not covered by it.

(3) That the act was done to deceive the citizens of Salem is immaterial. There is no statute which makes such intent criminal.

DISTILLER NEED NOT PAY EXCESS FOR PORTION OF FERMENTING PERIOD.—

Circular 238 fixes and defines the daily producing capacity of

a distillery by using the average capacity of the fermenting period. So, if the fermenting period is three days and the producing capacity is 500 bushels of grain the first day, 500 the second day and 200 the third day, the average for the three days would be 400 bushels, and circular 238 makes this average the daily capacity.

If any grain is used in excess of the estimated capacity of the distillery an assessment is made of $1.10 for every proof gallon of such excess, although no credit is given if less than the full capacity be used. Under this rule, if the first two days of the fermenting period came in one month and the last day in the next month, the distiller would have to pay for the excess used in the first month over the estimated producing capacity, though no credit would be received for the deficiency used the first day of the next month.

In 1891 the Chicago Distilling Company, objecting to the above rule, brought suit against Internal Revenue Collector Stone to recover the excess assessment so levied and collected by him, and the United States Supreme Court held: That nothing but the average capacity of a distillery was intended by the law, and under the rule fixed the distiller is subjected to an unjust mulct or assessment by a mere fiction. Having paid the assessment it may be recovered back from the collector.

CHAPTER VIII.

EXPORTERS.

DRAWBACK ON EXPORTATION.—

Sec. 3329.—Distilled spirits upon which all taxes have been paid may be exported, with the privilege of drawback in distiller's original packages of not less than twenty wine gallons.

FRAUDULENT DRAWBACK.—

Sec. 3330.—No person shall fraudulently claim or seek or obtain an allowance or drawback on any distilled spirits, or fraudulently claim a greater allowance or drawback

than the tax actually paid thereon, on penalty of triple amount and imprisonment not more than ten years.

ALLOWANCE FOR LOSS DURING TRANSPORTATION.—

Sec. 3330 *b* (1).—Where spirits are withdrawn from distillery warehouse for exportation, an allowance may be made for any leakage or loss by any unavoidable accident, and without any fraud or negligence of the distiller, owner, exporter, carrier, or their agents or employes, occurring during transportation to the port of export.

(2).—Where the spirits are covered by a valid claim of insurance in excess of the market value thereof, exclusive of the tax, the tax shall not be remitted to the extent of such excessive insurance.

REGAUGE OF SPIRITS FOR EXPORTATION.—

When distilled spirits upon which a tax has been paid are exported, they are to be regauged at port of exportation, alongside of or on the vessel, and the drawback allowed is to be determined by the gauge then taken, although a previous gauge may have shown a greater amount.

Thompson vs. United States, 142 U. S. 471.

RE-IMPORTED DOMESTIC WHISKY.—

Domestic whisky which has been exported in casks and then bottled in a foreign country, when reimported in the bottles cannot be classified as a domestic product returned. It is treated as a new importation on which duty must be paid as on foreign goods, and may be stored in customs bonded warehouse for a period of three years from the date of such reimportation.

Treasury Decision, February 8, 1898.

ALLOWANCE ON REGAUGE FOR EXPORT OF RE-IMPORTED WHISKY.—

Allowance for loss by evaporation or other natural causes of reimported whisky in customs warehouse on withdrawal for exportation after two years from the time of original entry cannot exceed five per cent of the original gauge. Such whisky is subject to all the provisions of law and regulations governing imported merchandise, and for that reason an importer is not en-

titled to the privilege granted to distillers of having spirits regauged after three years.

Treasury Decision, August 10, 1898.

LIMITATIONS AS TO QUANTITY TO BE WITHDRAWN AND DIVISION OF CONSIGNMENTS.—

The internal revenue office holds that the smallest quantity of spirits which may be entered for withdrawal for export purposes under the provisions of the act of March 3, 1897, is the contents of an original package not less than ten taxable gallons; that the total quantity of spirits withdrawn for export must be bottled and cased in the manner prescribed by the regulations, Series 7, No. 23; that no division of an entry into two or more lots for the purpose of tax-paying some and exporting others is allowed; that the total quantity of spirits withdrawn from a distillery warehouse for export as aforesaid must in all cases be exported, except in the case of a quantity left over too small to be cased, when the collector of internal revenue may accept the tax on such remnant and allow it to be used with other tax-paid spirits for bottling purposes; that the provisions of article 24 of the regulations, Series 7, No. 4, relative to a division of a consignment at the port of export when bond BB is given, apply to spirits bottled for export; that spirits bottled for export are not allowed to be held in the bottling warehouse subject to orders for cased goods for export, for the reason that each entry for withdrawal for export must be bona fide—that is, the order for such export goods must be antecedent to the entry for withdrawal; and, lastly, that cased goods when prepared in the manner prescribed by said regulations, Series 7, No. 23, must be immediately removed from the distillery premises, and, in the case of spirits cased for export, the same must be immediately shipped to the port of export consigned to the collector of such port.

Treasury Decision, March 11, 1898.

CHAPTER IX.

BREWERS AND DEALERS IN MALT LIQUORS.

REGULATIONS FOR DEALERS IN FERMENTED OR MALT LIQUORS.—

(The term "malt liquors" embraces beer, ale, porter, weiss beer.)

Every person who sells or offers for sale malt liquors in quantities of not less than five gallons at any time, but who does not deal in spirituous liquors at wholesale, shall be regarded as a wholesale dealer in malt liquors.

Every person who sells or offers for sale malt liquors in less quantities than five gallons at one time, but who does not deal in spirituous liquors, shall be regarded as a retail dealer in malt liquors.

Every dealer in fermented or malt liquors must, before commencing business, pay the special tax.

The special tax stamp should always be posted up in a conspicuous place.

It is important for the dealer to carefully inspect every package of fermented liquors which he receives on his premises, and note,

A. That the package is legally stamped.

B. That the stamp is properly canceled.

C. That the package has been branded by the brewer as the law requires.

D. That the stamp is always destroyed when the package is put on tap.

The stamp must be fixed upon the spigot-hole in the head of the package, and the spigot or the *air* faucet must in all cases be driven through the stamp in such a manner

as to effectually destroy such stamp when a package is put *on draught.*

Imported malt liquors are required to be stamped before they are withdrawn from the bonded warehouse, and said stamp must be destroyed when the package is emptied.

A brewer is not required to pay special tax as dealer in malt liquors, by reason of selling in the original stamped package, whether at the place of manufacture or elsewhere, malt liquors manufactured by himself.

Brewers who, on the brewery premises, or at any other place, sell fermented liquors manufactured by themselves or others, in quantities less than five gallons, except in the original stamped eighth-barrel package of their own manufacture, will be required to pay the special tax of retail dealers in malt liquor.

The brewer is required by law to put upon each package containing malt liquor a certain brand, and no person other than the owner is permitted to remove or deface such brand intentionally, without exposure to a penalty of fifty dollars for each package.

All the laws and regulations relating to beer also apply to weiss beer, and every person selling weiss beer must pay special tax as dealer in malt liquors.

The commissioner of internal revenue forbids the use of two stamps of the same denomination to one package of a higher denomination; as, for instance, two quarter-barrel stamps to a half-barrel package, except it be a package larger than a hogshead.

Fermented liquors may be exported in original packages with an allowance for drawback of all taxes which have been paid. Special provision has also been made for

its exportation in bottles, with allowance for drawback of tax, when bottled from stamped packages.

Beer bottles which were exported, filled with beer of American manufacture, may be reimported empty, free from duty, provided at the time and place of exportation "a declaration is made of the intent to return the bottles empty."

Brewers, as well as *all* others who bottle malt liquors for sale, are liable as malt liquor dealers, and are required to pay special tax as wholesale or retail malt liquor dealers, according to the quantity sold at one time.

Stamps affixed to packages containing malt liquors are canceled by imprinting or writing thereon the name of the person, firm or corporation by whom such liquor was made, or the initial letters of such name, and the date of such cancelation.

Every brewer is required to brand every package containing malt liquors made by him, with his *name* and the *place* of manufacture.

Many decisions under the head of "Wholesale and Retail Liquor Dealers" apply also to dealers in malt liquors.

BEER STAMPS.—

The purchase of stamps by a brewer does not technically pay the tax on his production; the tax is paid when he attaches the stamp to the barrel for the purpose of putting the product on the market.

Although the law uses the word sale as applicable to the delivery and transfer of stamps, they do not thereby become a commodity of merchandise in the market.

The collector in accepting drafts in payment of tax acts without the authority of law and does not bind the United States.

The collector's agency in the sale of stamps is limited to the sale of stock on hand, but does not confer the right to sell for a future delivery.

Treasury Decision, April 19, 1898.

THE REVENUE TAX ON HOP BEER, ROOT BEER AND ALE.—

Fermented liquor brewed from hops, yeast, molasses, salt and eggs—no malt in it—is subject to the tax on fermented liquors made from malt, or from a substitute for malt, if the quantity of molasses used is sufficiently large to make such beer a similar fermented liquor to weiss beer, or any stronger fermented liquor.

If the beverage is similar in taste and appearance to malt liquor, the person who manufactures it is required to give bond and pay special tax as a brewer, even though the quantity of alcohol developed in it by fermentation (as in weiss beer) is so small that it can hardly be regarded as intoxicating.

Root beer, ginger ale, etc., not being similar fermented liquors to any malt liquors contemplated by section 3339, Revised Statutes, are not subject to tax under that section, and, therefore, special tax need not be paid for their manufacture and sale.

Treasury Decision, June 28, 1897.

ONE WHO MAKES "MALTINA" IS A BREWER.—

One who buys tax-paid beer and fills it into bottles from the stamped package, filling each bottle about one-third full, then to each bottle adds two parts carbonated water and burnt sugar to the one part of beer, adding the mixture from bottles prepared for that purpose, then sets the bottles aside for a few days, when they are ready for use, is held to be a brewer within the meaning of the first subdivision of Section 3244 of Revised Statutes.

Commissioner's Letter, October 1, 1897.

MALT WINE.—

A wine-like product, called malt wine, contained 15.35 per cent of alcohol by volume and 12.42 per cent by weight, and 14.27 per cent of total solid matter. The process of production consisted essentially in fermenting materials ordinarily used in the production of malt liquors, viz.: Malted grain, rice, glucose, etc., by yeast cells taken from a wine. This yeast tends to produce the flavor and taste of wine instead of the flavor of a malt liquor, which would result if a beer yeast were used, and a wine-like liquor is the result.

Although, by the use of a wine yeast instead of a beer yeast in the fermentation of the liquids used in the manufacture of this "malt wine," the result is a liquor which has both the appearance and the taste of wine, nevertheless it is not wine in any true meaning of the word, nor (as shown by the samples submitted, which were not "made in imitation of sparkling wine or cham-

pagne," nor "produced by being rectified or mixed with distilled spirits or by the infusion of any matter in spirits") is it such an imitation wine as section 3328, Revised Statutes, describes.

In the manufacture of the particular liquor submitted in this case for examination, barley malt was used, and as ferment the yeast from 1893 Steinberg Cabinet Wine. Whenever, therefore, this fermented liquor is made for sale, the manufacturer of it is required to pay special tax as a brewer under the first subdivision of section 3244, Revised Statutes, and to give notice and bond as a brewer under sections 3335 and 3336, Revised Statutes, and pay tax on the liquor under section 3339, Revised Statutes.

If, in the manufacture of a fermented liquor similar in look and flavor to this, there were used instead the juices of fruits, this ruling of course would not apply.

Treasury Decision, February 24, 1898.

SPECIAL TAXES ON MALT BEVERAGES.—

Dealers in any small beer that is a beverage similar to weiss beer, and is either fermented malt liquor, diluted and reduced in alcoholic strength, or is a fermented liquor made from some substitute for malt, are required to pay special tax as malt-liquor dealers.

It is held that rice and grain of any kind other than malt, bran and glucose are substitutes for malt within the meaning of the first subdivision of section 3244, Revised Statutes, and that sugar and molasses are also substitutes for malt when either is the main ingredient used in the manufacture of a beer, and the quantity so used is sufficiently large to make such beer a similar fermented liquor to weiss beer.

Treasury Decision, March 24, 1898.

SPECIAL TAX—BREWERS.—

A brewer holding a special tax stamp of the smaller class is not required to pay special tax as a brewer of the larger class until the entire quantity of beer produced by him within the special-tax year amounts to 500 barrels. As soon as the quantities produced month by month within that period amount in the aggregate to 500 barrels he must pay the special tax of a brewer of the larger class for the entire year ($100). He may then send in his stamp of the smaller class for redemption.

Treasury Decision, June 2, 1898.

BREWERS MUST PAY TAX AS WHOLESALE DEALERS FOR SALE FROM PLACE OF STORAGE.—

Brewers who establish places of storage for bottled beer, and complete sales by delivery therefrom to purchasers in whole-

sale quantities, are required to pay special tax as wholesale dealers in malt liquor at every such place.

Treasury Decision, June 2, 1898.

BREWER ENTITLED TO REFUND OF EXCESS TAX PAID.—

A brewer who paid special tax as a brewer of 500 barrels or over and manufactured less is entitled to refund of excess. Court of Claims has jurisdiction to enforce payment of allowance made by commissioner.

Kaufman vs. United States, 96 U. S. 567.

FERMENTED LIQUORS—RECOVERING SPECIAL ASSESSMENT PAID.—

A manufacturer of fermented liquors, from whom taxes had been collected under a special assessment, was, in order to recover them, required by the act of July 13, 1866, to show that his return did not contain any understatements; and he should prove that it agreed with the quantity of liquor actually drawn from the fermenting vessels. His books, if kept according to law, ought to be the best evidence.

Bergdoll vs. Pollock, 5 Otto 337.

WHEN BREWERS ARE LIABLE TO RETAIL DEALER'S TAX.—

Brewers who, on the brewery premises or at any other place, sell fermented liquors manufactured by themselves or others, in quantities less than five gallons, except in the original stamped eighth-barrel package of their own manufacture, will be required to pay the special tax of retail dealers in malt liquors. Brewers, as well as others, who bottle malt liquors for sale are liable as malt-liquor dealers, and are required to pay special tax as wholesale or retail malt-liquor dealers, or both, according to the aggregate contents of the whole number of bottles sold at one time.

Int. Rev. Reg., Series 7, No. 1, 1893, p. 31.

GALLON DEFINED.—

Sec. 3339 *a*.—The word "gallon" as used relating to fermented liquors means a wine gallon of 231 cubic inches.

GALLON DEFINED.—

The standard gallon of the United States contains 231 cubic inches or 8.3389 pounds avoirdupois of distilled water at its maximum density and with the barometer at 30 inches. (Webster's Dictionary.)

The old beer gallon of 282 cubic inches was recognized as

the standard for domestic malt liquors before the act of March 1, 1879. That act was passed to make the gallon conform to the standard in the customs service and to that recognized by the mercantile community.

Nichols vs. Beard, 29 Int. Rev. Rec. 46.

DISPOSAL OF SOUR MALT LIQUORS WITHOUT TAX-STAMP.—

Section 3347.—When fermented liquor has become sour or damaged, so as to be incapable of use as such, brewers may sell the same for manufacturing purposes, and may remove the same to places where it may be used for such purposes, in casks or other vessels unlike those ordinarily used for fermented liquors, containing respectively not less than one barrel each, and having the nature of their contents marked upon them, without affixing thereon the permit, stamp or stamps required.

UNITED STATES INTERNAL REVENUE LAWS NOT APPLICABLE TO NEW POSSESSIONS.—

Persons desiring to engage in brewing in Hawaiian or Philippine Islands, Cuba or Porto Rico must comply with the laws now in force in those jurisdictions. The United States internal revenue laws are not applicable to them.

CHAPTER X.

WINE AND BRANDY.

DIGEST OF RULINGS RELATING TO TAX UNDER WAR REVENUE LAW ON SPARKLING OR OTHER WINES WHEN BOTTLED FOR SALE.—

The new revenue law imposes a tax on sparkling and other wines, when bottled for sale, of 1 cent on each bottle containing a pint or less, and 2 cents on each bottle containing more than one pint. The value of the stamp must cor-

respond with the size or capacity of the bottle used to contain the wine.

Stamps must be affixed to domestic as well as imported wines. In the case of domestic wines the stamp is to be affixed, when the wines are transferred to the bottles for sale, by the person who makes the transfer. In the case of imported wines the bottles, unless previously stamped, must be stamped by the importer after the same are removed from the custom house and immediately upon their removal to the premises or warehouse of the importer.

Foreign wines in bottles may be stamped abroad. The stamps may be canceled by the importer before he sends them abroad, or they may be canceled at the time they are affixed to the bottles.

Demijohns and jugs containing wine exposed for sale, which are manifestly substitutes for uncovered bottles, will be considered as bottles, and must be stamped accordingly. The fact that small bottles used for containing wine are surrounded with wickerwork or are composed of earthen or stone ware with a handle attached will not relieve them from liability to the tax imposed by the new law; but jugs or demijohns containing a gallon or upward, filled from packages containing wines in bulk for delivery as orders arise, would not be considered as bottles within the meaning of the law. In general, it may be said that kettles, pitchers, demijohns and jugs containing wine do not require stamps, unless these vessels are of such size and material as show them to be used as bottles or substitutes for bottles for the purpose of evading the tax, in which case they must be stamped.

The unfermented juice of the grape, whether bottled or not, is not subject to taxation and need not be stamped.

The presence or absence of a label or seal on bottled wines is not material to the question of taxability.

When a retail dealer fills a bottle from a barrel for his bar stock, from which he sells wine by the glass, he is not required to stamp the bottle. Bottles of wine sold at retail over the bar are taxable and must be stamped.

The stamping of bottles of wine which were on hand on July 1, 1898, in the hands of wholesale or retail dealers not the manufacturers thereof, may be deferred until the time when the bottle, with its contents, is sold at retail.

Liquor not known and used as wine, the principal ingredient of which is not wine, does not require to be stamped unless it is held out or recommended to the public by the makers, venders or proprietors thereof as a proprietary medicine or medicinal proprietary article or preparation, or as a remedy or specific for any disease. This ruling applies to liqueurs, cordials, cremes and the like, such as "Maraschino," "Curacoa," "Creme de Menthe," etc.

Where vermuth is bottled as such, for sale, as its basis or principal ingredient is wine, the fact that other ingredients are added does not take it from the category of wines, at least for the purposes of internal revenue taxation. Where vermuth is held out or recommended to the public, by statements appearing on the label or otherwise, as a proprietary medicine or as a remedy or specific for any disease, it is taxable as a proprietary medicine under Schedule B, and must be stamped accordingly.

Where a customer calls for a pint of wine, bringing his bottle with him to be filled, the bottle must be stamped. Where the dealer, who sells the wine, furnishes the bottle, it must be stamped. Flasks are considered as bottles and must be stamped accordingly.

Wines produced from native mustang grapes must be stamped when bottled for sale.

A farmer who grows his own grapes and produces wine,

which he bottles for sale, must stamp the same. Under the provisions of Section 3246, Revised Statutes, as amended, however, vintners who sell wine of their own growth, or manufacturers who sell wine produced from grapes grown by others at the place where the same is made, or at the general office of such vintner or manufacturer, are relieved from the payment of *special tax as dealers* on account of such sales, and may sell at two places, viz., the place of manufacture and one "general business office" elsewhere.

The tax applies to all wine bottled for sale, without regard to the purpose for which it is to be used and without regard to the length of time during which it is exposed for sale.

It is not necessary that the stamps should be placed over the cork or over the mouth of the bottle, except in cases where stamps imprinted from private dies are used under the provisions of Section 9 of the act. An ordinary revenue stamp canceled with the date when it is affixed and the initials of the person using or affixing the same may be attached to any conspicuous part of the bottle.

Wines transferred to bottles by restaurant keepers and served by the bottle with meals furnished by them must be stamped.

In case of genuine sparkling wines or champagnes put up in bottles undergoing the natural process of development, during which they require considerable manipulation before arriving at a finished state, the stamping of the bottles may be postponed until such time as the wine arrives at a marketable condition. As soon as the wines are in such condition the liability to tax at once attaches and the stamp must be affixed. The affixing of caps or labels to such bottles will be taken as conclusive evidence that they are "bottled for sale," and if the proper stamps have not been attached prior

to that time the bottle must be stamped without fail when the caps and labels are affixed.

Treasury Decision, August 24, 1898.

STAMP TAX ON WINES BOTTLED FOR STORAGE FOR AGING.—

When foreign or domestic wines are transferred from bulk packages to bottles in an immature state for storage in bins for a considerable time for aging purposes, such wines will not be regarded as "bottled for sale" until they arrive at a marketable condition, and the stamping of the bottles may be deferred until then. Affixing of caps or labels will be taken as conclusive evidence that they are "bottled for sale," and bottles must then be stamped.

Where wine sold by dealers is delivered in bottles they must be stamped, even though sold in cask and bottled at request of purchaser.

Treasury Decision, August 23, 1898.

IMITATION SPARKLING WINES AND COMPOUND LIQUORS TO BE SOLD AS WINE OR AS A SUBSTITUTE FOR WINE.—

Section 3328, United States Revised Statutes, provides as follows:

On all wines, liquors or compounds known or denominated as wine, and made in imitation of sparkling wine or champagne, but not made from grapes grown in the United States, and on all liquors not made from grapes, currants, rhubarb or berries grown in the United States, but produced by being rectified or mixed with distilled spirits or by the infusion of any matter in spirits, to be sold as wine, or as a substitute for wine, there shall be levied and collected a tax of 10 cents per bottle or package containing not more than one pint, or of 20 cents per bottle or package containing more than one pint and not more than one quart, and at the same rate for any larger quantity of such merchandise, however the same may be put up or whatever may be the package.

Sparkling wines are produced by two processes. One is what is known as the natural process, by which the carbonic acid gas, which imparts the sparkling property to the wine, is evolved by fermentation. In the artificial process the carbonic acid gas is infused into the wine. The products of the former process are recognized as genuine sparkling wines, and are not

subject to taxation under the internal revenue laws; the products of the latter are imitation sparkling wines, and are subject to taxation under said section 3328, unless made from grapes grown in the United States. The use of any other material than such as may be necessary to convert the domestic grape into sparkling wine renders the article produced subject to tax.

The infusion of carbonic acid gas into wine made exclusively from grapes grown in the United States, and the "fortifying" of the same by the addition of not exceeding 10 per cent of proof spirits is, however, deemed a part of the manufacture of genuine native wine, and is therefore permitted without rendering the product liable to taxation under section 3328, Revised Statutes, or constituting the producer a rectifier.

The infusion of carbonic acid gas into wine made from currants, rhubarb or berries, however, renders the product taxable.

The second class of liquors taxed under said section consists of those produced by being rectified, or mixed with distilled spirits, or by the infusion of any matter in spirits to be sold as wine or as a substitute for wine. Liquors made directly from grapes, currants, rhubarb or berries grown in the United States, without the admixture of distilled spirits, are not taxable under this section. To render a liquor that has been produced by being rectified or mixed with distilled spirits or by the infusion of any matter in spirits liable to tax, it must be sold as wine or as a substitute for wine. This language includes not only those liquors that are sold under the specific name of wine, but also such as are of a similar character to wine and are popularly classed as wine in contradistinction to spirituous liquors. Genuine wine is the product of the vinous fermentation of certain fruits, but the article taxed under this section is a compound liquor, having as a basis distilled spirits, and sold as wine or as a substitute for wine. Revenue officers, in determining the liability of this class of liquors to tax, will be guided in a great measure by the manner in which the liquors are put upon the market and offered to the public, the general character of the liquor, and whether it is sold under the general name of wine, or is represented as possessing the properties of or being a substitute for wine.

Under section 3244, Revised Statutes, all persons manufacturing the imitation sparkling wines and compound liquors

described in section 3328, Revised Statutes, are rectifiers, and liable to all the requirements of laws as such.

SPECIAL TAX ON WINE USED FOR TOBACCO CASING FLUID.—

Where wine is used for making a "casing fluid for leaf tobacco," unless the material added to the wine changes its character so that it is neither a potable liquid nor a liquid coming under the head of distilled spirits, wine or malt liquor, special tax is required to be paid for its manufacture and sale, even though it be sold only to cigar manufacturers for use in leaf tobacco.

Treasury Decision, May 12, 1898.

SPECIAL TAX FOR ELDER BLOSSOM WINE.—

A fermented liquor made from oranges, sugar and elder blossoms is wine within the meaning of the internal revenue laws, and the special tax of a liquor dealer is required to be paid for its sale.

Treasury Decision, March 14, 1898.

SPECIAL TAX OF MANUFACTURER OF WINE.—

Under the exempting provision of section 3246, Revised Statutes, it is held that a manufacturer of wine may sell the wine at two places without paying special tax as a liquor dealer, viz., the place of manufacture and one "general business office" elsewhere.

Treasury Decision, April 8, 1898.

SPECIAL TAX OF WINE MANUFACTURER.—

Where grapes are pressed at one place and the juice is then carried to another place and there fermented, the latter is the place of manufacture of the wine, and the manufacturer is there permitted by the provisions of section 3246, Revised Statutes, to sell it without paying special tax.

Treasury Decision, May 25, 1898.

STAMPS ON BOTTLED WINE WHICH FAILED OF DELIVERY BY REASON OF IMPERFECTIONS DISCOVERED IN THE WINE CANNOT BE RE-USED.—

Where stamps have once been affixed to bottles of wine and canceled in compliance with the law in that particular, they can never be legally detached therefrom and affixed to other bottles, even though the wine for some reason has to be dumped.

The statute imposes severe penalties for the re-use of stamps, and does not sanction their re-use in any case. Any expense resulting to the producers of wine under the circumstances cited,

by reason of loss on stamps covering wine which failed of delivery, must be regarded as one of the incidents of the business.

Treasury Decision, October 10, 1898.

SPECIAL TAX—BLACKBERRY BRANDY.—

Blackberry juice, preserved from spoiling by the addition of the necessary quantity of spirits, is a medicinal article, and persons who sell it only under a label specifying the diseases for which it is held out as a remedy, never knowingly selling it to those who buy it for use as a beverage, are not required to pay special tax as liquor dealers on account of its sale.

Treasury Decision, November 19, 1898.

BOTTLES MUST BE STAMPED EVEN IF GIVEN AWAY.—

Bottled wines must bear the stamp required by law, even in cases where the element of sale is nominally lacking, as in case of free samples given away for advertising purposes, and no exceptions can be made in favor of wines "presented" to individuals.

Treasury Decision, October 18, 1898.

FRUIT JUICE SUBJECT TO TAX.—

Strawberry and raspberry fruit juice, containing no alcohol, was assessed under paragraph 247 of the act of 1894, which provides for—

"Cherry juice and prune juice, or prune wine, and other fruit juices not specially provided for in this act, containing 18 per centum or less of alcohol, 50 cents per gallon."

This is claimed not to come under this description because it contains no alcohol, but that it is a non-enumerated manufactured article. No alcohol at all is less than 18 per centum of alcohol, and makes this article come within the division provided for in that paragraph. It is a fruit juice. It contains less than 18 per centum of alcohol.

Park & Tilford vs. United States, Customs Appeals, No. 2505.

SALE OF HOME-MADE WINE, EXCEPT BY MANUFACTURER, REQUIRES SPECIAL TAX.—

It is a violation of the internal revenue laws of the United States for persons not holding the requisite tax stamp to sell any fermented wine, except from grapes, even though it is home-made wine. It is only persons who manufacture such wine from berries or peaches or other fruits (except grapes) of "their own growing" who are permitted to sell the wine without paying special tax therefor as liquor dealers, and then sale must be at place of manufacture or at one general business office. Manu-

facturers of wine from grapes, whether of their own growing or not, are excepted.

Treasury Decision, October 19, 1898.

VINTNERS NOT TAXED.—

Sec. 3246.—Vintners who sell wine of their own growth and manufacturers who sell wine made from grapes grown by others, at the place where it is made, need not pay special tax.

BRANDY WAREHOUSES.—

Sec. 3334 *a* (1).—The commissioner is authorized to establish special bonded warehouses, not to exceed ten in any one collection district, exclusively for the storage of brandy made from grapes. To be in charge of storekeepers the same as distillery warehouses.

BRANDY EXPORTATION.—

Sec. 3334 *a* (6).—The provisions of law relating to the exportation of distilled spirits are extended to the exportation of grape brandy free of tax in original cask of not less than twenty gallons, and for drawback on grape brandy exported on which tax has been paid, in quantities of not less than one hundred gallons.

WINE SPIRITS USED IN WINE FREE.—

Sec. 3334 *a* (42).—A distiller of wine-spirits may use wine-spirits free of tax to fortify sweet wines for preservation, not to exceed in alcoholic strength fourteen per cent of the wines.

(45).—Such wine-spirits may be withdrawn from the warehouse in original packages in any quantity not less than eighty wine-gallons, and must be used at the vineyard of the wine-grower where the grapes are crushed and juice is fermented.

(46).—Wine-spirits may be withdrawn from warehouse free of tax to fortify wines which are intended for exportation, and must be introduced into such wines only after

removal from storage and arrival alongside the vessel for transportation.

EXEMPTIONS ON BRANDY MADE FROM APPLES, PEACHES, GRAPES, BERRIES, ETC.—

Distillers of brandy made exclusively from apples, peaches, grapes, pears, pineapples, oranges, apricots, berries or prunes are exempt from the following provisions of law relating to the manufacture of spirits:

Section 3262, requiring distiller to own distillery premises or have written consent of owner.

Section 3263, relating to plan of distillery.

Section 3267, relating to receiving cisterns.

Section 3269, relating to furnaces, tubs, doublers and worm-tanks.

Section 3271, relating to distillery warehouses.

Section 3273, relating to storekeeper having charge of distillery and warehouse.

Section 3275, relating to fences and accessibility of distillery.

Section 3279, relating to signs.

Section 3284, relating to using material or removing spirits in absence of storekeeper.

Section 3285, relating to emptying fermenting tubs.

Section 3291, relating to withdrawal from warehouse.

Section 3302, relating to duties of storekeepers.

Section 3310, relating to commencement and suspension of work.

Section 3318, relating to rectifier's and wholesale dealer's books and transcripts.

Part of section 3259, relating to notice.

Part of section 3266, relating to use of still.

Part of section 3303, relating to distiller's books.

Part of section 3305, relating to false entries or omitting to keep books.

Part of section 3307, relating to distiller's returns.

Part of section 3264, relating to surveys.

Part of section 3287, relating to removals of spirits to warehouse.

Part of section 3293, relating to entry of deposit in warehouse and warehouse bonds.

Part of section 3295, relating to stamping and branding.

Part of section 3244, relating to special taxes.

Part of section 3309, relating to capacity.

Part of section 3311, relating to reduction of capacity; and

Part of section 3318, relating to keeping books.

Distillation from the undistilled product of the fruits is regarded as a distillation from the fruit.

Int. Rev. Reg. Series 7, No. 7, Supplement No. 1, issued 1896.

CHAPTER XI.

IMPORTERS.

TARIFF ON SPIRITS, WINES AND OTHER BEVERAGES.—

COMPARATIVE STATEMENT OF THE RATES OF DUTY, SHOWING RATES UNDER THE DINGLEY BILL NOW IN FORCE AND ALSO RATES UNDER THE M'KINLEY AND WILSON ACTS.

	Dingley Law.	Wilson Law.	McKinley Law.
Spirits—			
Brandy and other spirits, manufactured or distilled from grain or other materials, and not specially provided for, per proof gallon.....	$2.25	$1.80	$2.50
Cordials, liqueurs, arrack, absinthe, Kirchwasser, ratafia, and other spirituous beverages or bitters of all kinds, containing spirits, and not specially provided for, per gallon....	2.25	1.80	2.50
Imitations of brandy or spirits or wines, imported by any names whatever, shall be subject to the highest rate of duty provided for the genuine articles respectively intended to be represented; and in no case less than, per gallon.....	1.50	1.00	1.50
Bay rum or bay water, whether distilled or compounded, of first proof, and in proportion for any greater strength than first proof, per gallon.....	1.50	1.00	1.50
Wines—			
Champagne and all other sparkling wines, in bottles, containing each not more than one quart and more than one pint, per dozen	8.00	8.00	8.00
Containing not more than one pint and more than one-half pint, per dozen...	4.00	4.00	4.00
Containing one-half pint or less, per dozen	2.00	2.00	2.00
In bottles or other vessels containing more than one quart each, in addition to $8 per dozen bottles, on the quantity in excess of one quart, per gallon	2.50	2.50	2.50

Still wines, including ginger wine and vermouth, in casks or packages, other than bottles or jugs, containing 14 per cent or less of absolute alcohol, per gallon	.40	.30 to .50	.50
Containing more than 14 per cent alcohol	.50	.30 to .50	.50
In bottles or jugs, per case of one dozen, containing each not more than one quart, and more than one pint, or 24 bottles or jugs, containing each not more than one pint, per case	1.60	1.60	1.60
Excess of these quantities is subject to a duty per pint or fractional part thereof of	.05	.05	.05
Ale, porter and beer in bottles or jugs, per gallon	.40	.30	.40
But no separate or additional duty shall be assessed on the bottles or jugs.			
Otherwise than in bottles or jugs, per gallon	.20	.15	.20
Malt extract, fluid, in casks, per gal	.20	.15	.20
In bottles or jugs	.40	.30	.40
Solid or condensed	40¢	30¢	40¢
Cherry juice and prune juice, or prune wines and other fruit juice not specially provided for, containing no alcohol or not more than 18 per cent of alcohol, per gallon	.60	.50	.60
If containing more than 18 per cent of alcohol, per gallon	.60	1.80	2.50
And per gallon on spirits	2.07		
Ginger ale, ginger beer, lemonade, soda water and other similar beverages, in plain, green, or colored, molded or pressed glass bottles, containing each not more than ¾ of a pint, per dozen	.18	20¢	.15
Containing more than ¾ of a pint each and not more than 1½ pints, per doz	.28	20¢	.28

If imported otherwise than in plain, green or colored, molded or pressed glass bottles, or in such bottles containing more than 1½ pints, each, duty shall be collected on the bottles or other coverings at the rate charged thereon if imported empty, per gallon	.50	...	.50
All mineral waters and all imitations of natural mineral waters, and all artificial mineral waters not specially provided for, in green or colored glass bottles, containing not more than one pint, per dozen	.20	20%	.16
If containing more than one pint and not more than one quart, per doz...	.30	20%	.25
If imported otherwise than in plain, green or colored glass bottles, or if imported in such bottles containing more than one quart, per gallon....	.24	20%	.20

FRENCH RECIPROCITY TREATY ON BOTTLED WINE AND VERMUTH.—

The attorney-general, replying to the question, "Are we obliged to stamp French reciprocity wine and vermuth after reciprocity treaty went into effect?" says:

The reciprocity treaty referred to went into effect June 1, 1898. In that is the following agreement on the part of the United States:

"That the rates of duty heretofore imposed and collected on still wines, the product of France, under the provisions of the United States tariff act of 1897, shall be conditionally suspended, and in place thereof shall be imposed and collected as follows, namely: On still wines and vermuth, in casks, thirty-five cents per gallon; in bottles or jugs, per case of one dozen bottles or jugs, containing each not more than one quart and more than one pint, or twenty-four bottles or jugs containing each not more than one pint, one dollar and twenty-five cents per case, and any excess beyond these quantities found in such bottles or jugs shall be subject to a duty of four cents per pint or fractional part thereof, but no separate or additional duty shall be assessed upon the bottles or jugs."

This treaty refers exclusively to the tariff duty and can have no reference to an internal revenue tax provided for articles to be put upon sale in the United States. The war revenue bill pro-

vides: "Sparkling or other wines, when bottled for sale, upon each bottle containing one pint or less, one cent. Upon each bottle containing more than one pint, two cents."

Under this provision any wines, foreign or domestic, bottled for sale require the stamp. If the wines are imported in casks and bottled here to be put upon the market for sale, then the stamp must be affixed by the bottler. If the wines are imported in bottles, then the stamp must be affixed as provided in Section 21, because that section provides that all such articles of foreign manufacture—that is, such articles as, if manufactured and put up in this country, would require a stamp—shall in addition to the duty imposed upon the same be subject to the stamp tax prescribed in said act.

Opinion of U. S. Attorney General.

GOVERNMENT CANNOT DELIVER GOODS TO OWNER OF WAREHOUSE RECEIPT WITHOUT CONSENT OF IMPORTER.—

A. R. McHenry & Co. of Philadelphia, Pa., made advances to an importer, taking warehouse receipts as collateral security for such advances. Upon default in payment the importer refused to make withdrawal of the goods and McHenry & Co. applied to the Treasury Department asking that they be recognized as having valid title and be permitted to make such withdrawal, upon which application the following ruling was made:

While the department recognizes the holder of a warehouse receipt, so far as it refrains from compelling delivery to any other person without his authority, yet it has no power to deliver the merchandise to him without due transfer by the importer. * * * All duties having been paid, the government has no further concern with the whisky, and the right to deliver or withhold delivery rests with the warehouseman alone. The collector of customs has no authority to take any further action in the matter or to interfere in the controversy between the importers and the warehouseman.

Imported merchandise is deemed and held to be the property of the person to whom it may be consigned, and in order that the rights of ownership shall be duly respected, the department declines to recognize the title of any other than the consignee, or the person to whom he has duly transferred his rights by indorsement of the bill of lading, or by a written order upon the withdrawal of goods in bond. Upon the presentation of a valid withdrawal and the payment of duty, the government releases its control over merchandise in bond, and its delivery is a proceeding resting solely upon the warehouseman.

Treasury Decision, February 18, 1897.

ASSIGNEE OF IMPORTER MAY ENTER GOODS.—

When imported goods are placed in warehouse under gen-

eral order as unclaimed, and afterward entered by an assignee for benefit of creditors, they may be delivered to him, as the department does not recognize the foreign shipper as having any claim on the goods while in the custody of the collector, and the legal representative of the importer succeeds to all rights and interests for customs purposes in the property consigned to his assignor.

Treasury Decision, 1897.

DUTY UPON RE-IMPORTED DOMESTIC SPIRITS.—

Spirits exported and subsequently reimported, withdrawn from custom house for consumption after August 28, 1894, are subject to a duty equal to the internal revenue tax existing at the time of such withdrawal, i. e., $1.10 per gallon.

Treasury Decision, September 29, 1894.

DUTIES PAID MUST BE RETURNED IF GOODS ARE FORFEITED.—

The United States government has no right under existing laws to declare goods in its hands forfeited and at the same time collect the duties on them of the importer in addition. The government is presumed to get the benefit of the duties in the price received on the sale of them, so that there is no presumptive loss of duties. If the importers have paid the duties and the goods are afterward declared forfeited and sold, the money paid must be returned.

U. S. Circuit Court Decision, 1898.

LIABILITY OF IMPORTER TO WHOLESALE DEALER'S SPECIAL TAX.—

A distinct and separate special tax stamp is required to be taken out by a liquor dealer at every place at which he completes sales by deliveries of liquors, without having made prior constructive deliveries thereof to his customers at his regular place of business for which he holds the requisite stamp.

So an importer of liquors holding a special-tax stamp as a wholesale liquor dealer at his office in the city of A, must take out an additional stamp and pay additional tax as wholesale dealer for the city of B, if he sells and delivers packages of liquors through an agent at his place of storage in B, unless there is a prior constructive delivery to the purchasers at his office in A.

Treasury Decision, April 19, 1898.

STAMPS FOR IMPORTED LIQUORS.—

Sec. 3334 *a* (11).—Imported liquor packages withdrawn from public store or warehouse, not having the required stamp, are forfeited. And whenever any package of im-

ported distilled spirits of not less than five wine gallons is filled for shipment, sale or delivery on the premises of any wholesale liquor dealer, it must be stamped with special stamp.

STAMPS EFFACED.—

Sec. 3334 *a* (12).—Every person emptying or causing to be emptied the contents of any package of imported liquors shall obliterate and destroy the stamp, marks and brands thereon.

IMPORTED SPIRIT STAMPS.—

It is no offense against section 12 of the internal revenue act of March 1, 1879, to have in one's possession a canceled stamp, or stamp which has been used, or which purports to have been used, upon any cask or package of imported liquors, unless the same was removed from the cask or package by some person intentionally, without being defaced or destroyed at time of removal.

United States vs. Morris Spiegel, 116 W. S. 270.

IMPORTED CASKS.—

Sec. 3334 *a* (13).—No person shall purchase or sell any cask or package with the imported liquor stamp, marks or brands thereon after the same has been used to contain imported liquors and has been emptied.

SHIPPING LIQUORS AND WINES UNDER FALSE NAME OR BRAND.—

Sec. 3449.—Whenever any person ships, transports or removes any spirituous or fermented liquors and wines under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or causes such act to be done, he shall forfeit said liquors or wines and casks or packages, and be subject to pay a fine of $500.

FOREIGN GOODS INFRINGING TRADE-MARK CANNOT BE IMPORTED.—

Section 11, act of July 24, 1897, provides: That no article of imported merchandise which shall copy or simulate the name or

trade-mark of any domestic manufacture or manufacturer, or which shall bear a name or mark which is calculated to induce the public to believe that the article is manufactured in the United States, shall be admitted to entry at any custom house of the United States.

Treasury Decision, August 3, 1897.

NO ALLOWANCE FOR BREAKAGE IN TRANSIT.—

No allowance is made in customs duties for loss of liquors in transit by breakage and leakage of bottles or other like damage.

General Appraiser's Decision, November 20, 1896.

NO DUTY ON BOTTLES AND JUGS.—

No duty need be paid on bottles or jugs containing spirits (except those of glass) imported under the tariff act of July, 1897.

Treasury Decision, August, 1898.

REPACKING OF WINES UNDER PARAGRAPH 296 OF THE ACT OF 1897.—

Paragraph 296 of the act of July 24, 1897, is as follows:

Wines, cordials, brandy and other spirituous liquors, including bitters of all kinds, and bay rum or bay water, imported in bottles or jugs, shall be packed in packages containing not less than one dozen bottles or jugs in each package, or duty shall be paid as if such package contained at least one dozen bottles or jugs, and in addition thereto duty shall be collected on the bottles or jugs at the rates which would be chargeable thereon if imported empty.

It appears that in the invoice of sixty-two cases of champagne, comprising the importation in question, six of the cases were found to contain each six bottles, known commercially as "magnums," of about two quarts, and two of the cases contained each four "magnums" of about two quarts, and that duty was assessed on the said eight cases as if they contained one dozen bottles each. It is understood that application is made for permission to repack for the purpose of having duty assessed on the packages as thus made up.

The assessment was correct. A repacking of the wine for the purpose of reducing the number of dutiable cases would be contrary to the provisions of paragraph 296, which imposes duty on the contents of each case as imported, and not on cases to be made after importation.

The delivery of the cases containing less than twelve bottles each to the importer, after payment of duties as aforesaid, is not prohibited by law, nor is any repacking required after such delivery.

Treasury Decision, February, 1898.

IMPORTERS OF CHAMPAGNE MUST PAY DUTY ON BOTTLES AND WINE BOTH.—

The United States Circuit Court of Appeals, in referring to paragraphs 88 and 243 of the act of August 28, 1894, decides as follows:

Conceding that the last quoted paragraph is not entirely free from ambiguity, and that when Congress therein provided for a duty of "eight dollars per dozen on champagne in bottles," the phrase might, without violence to its language, be interpreted either as including or as excluding the bottles, any such ambiguity seems entirely relieved by the language of the next succeeding paragraph, 244, in the same act. Congress therein imposes a duty upon "still wines * * * in bottles * * * per case of one dozen bottles * * * containing each not more than one quart," and adds the proviso, "but no separate or additional duty shall be assessed on the bottles." Undoubtedly, therefore, Congress assumed that unless it thus expressly exempted the bottles, its imposition of a duty on wines in bottles per case of one dozen bottles would leave the bottles subject to the provision for duty on filled bottles contained in paragraph 88 of the same act. When, therefore, in the preceding section, Congress, in substantially similar language, lays a duty of $8 per dozen on champagne and other sparkling wines in bottles without exempting the bottles, it is a fair conclusion that it had no intention to exempt them from the operation of paragraph 88.

BOVRIL WINE—DUTIABLE AS A MEDICINAL PROPRIETARY PREPARATION, ALCOHOLIC, AT THE RATE OF 50 CENTS PER POUND, UNDER PARAGRAPH 74 OF ACT OF 1890.—

The so-called appraisers' case, the United States vs. W. M. Shoemaker (A. 1897), was decided in the United States Circuit Court for the Southern District of New York on December 9, 1897, in favor of the government.

The merchandise in suit consisted of so-called "Bovril" wine in bottles, which was classified for duty as a "medicinal proprietary preparation, alcoholic, at 50 cents per pound," under paragraph 74 of the act of October 1, 1890. The importer protested, claiming the Bovril wine to be dutiable at $1.60 per dozen bottles under paragraph 336 of said act.

The testimony in this case showed that the Bovril wine under consideration contained absolute alcohol by volume 17.90 and by weight 14.35; that it consisted of port wine, with extracts of beef and malt added thereto.

On the trial of this case, testimony was introduced on behalf of the government showing that "still wines," as understood commercially, do not include such compounds as the Bovril wines in question; also that tonics were medicinal, and that the action of

such a compound as Bovril wine was not the same as that of still wines, even when the latter were used medicinally.

The court finds that with the percentage of alcohol shown to have been contained in this Bovril wine it was properly classifiable as an alcoholic compound, following Mackie vs. Erhardt (77 Fed. Rep., 610); furthermore that the term "still wines" does not include such special preparations as that under consideration. The classification under paragraph 74 as a proprietary preparation containing alcohol is therefore sustained.

WHISKY FOR USE OF GOVERNMENT.—

The department cannot permit the withdrawal from custom bonded warehouse of whisky free of duty, but such withdrawal can be made from internal revenue bonded warehouse free of tax.

Treasury Decision, March 10, 1898.

PART IV.

STATE AND OTHER LAWS

OF

GENERAL INTEREST.

CHAPTER I.

STATE LAWS.

ALABAMA DISPENSARY ACT.—

Approved February 18, 1899.

The Alabama Dispensary Act, which takes effect January 1, 1900, provides:

Section 1. Each incorporated town or city in which the sale of liquor is not prohibited by law, may buy and sell liquors through a dispensary.

One dispensary is allowed for each ten thousand inhabitants, and the municipality must invest in the business not less than $300 nor more than $2,500 for each dispensary.

All liquors bought and sold shall be of the purest and best quality.

Section 2. Creates the office of dispenser and provides for his election and term of office.

Section 3. Provides the qualifications of dispenser and for his removal and filling vacancies.

Section 4. Provides for salary of dispenser.

Section 5. The dispenser shall not sell any kind of liquor in less quantity than one-half pint. Shall not make more than one sale to the same person in any one day and no sales from 6 p. m. to 6 a. m.

Section 6. The dispenser shall not drink or give away liquor on the premises or permit others to do so.

Section 7. Provides penalty for drinking on the premises.

Section 8. All liquors must be sold in sealed packages and no broken packages kept in the dispensary.

Section 9. Must buy and sell for cash only. Provides for accounting by dispenser and that the city or town must pay the same license tax to county and state formerly paid by retail dealers.

Section 10. No one else may sell except that manufacturers may sell by wholesale to dispensers or other dealers authorized to sell, under penalty of a fine of fifty to one hundred dollars.

Section 11. County with no incorporated town or city must conduct the business and pay state license.

Section 12. County may establish dispensaries in rural districts, and provides manner of procedure to establish such dispensaries.

Section 13. Provides against repeal of any local option law.

Section 14. Dispensary must not be connected with any adjacent house or lot.

Section 15. Repeals acts in conflict.

Section 16. This act shall go into effect on the first day of January, nineteen hundred (1900.) Provided, that this act shall not apply to the counties of Dallas, Walker, Cullman, Winston, Madison, Montgomery, Lawrence, Morgan, Blount, Mobile, Pickens, Lee, Tallapoosa, Coosa, Talladega, Barbour, Shelby, Lauderdale, Marengo, Crenshaw, Covington, Tuscaloosa, Fayette, Etowah, Macon, Calhoun, Marshall, Jefferson, Baldwin and Greenville, in Butler County, Roanoke in Randolph County and Uniontown in Perry County, and Colbert County, except in the town of Cherokee in said county. Provided, that the provisions of this bill shall not apply to the manufacture and sale of domestic wines in Cleburne and Marion Counties, made and manufactured out of grapes grown in said counties and manufactured in said counties.

Sections 17 and 18. Place the act in operation in Lowndes County at once and provide that said county shall receive funds derived from its violation.

ALASKA LIQUOR LAW.—

The new Alaska law, numbered "Public—193," passed in 1899, changes the prohibition system that formerly existed into high license and provides:

Section 460. The fees are: For billiard rooms, $25 a year; for bowling alleys, $25; brewers, $500; bottling works, $200; cigar stand, $25; drug store, $50; hotels, $50.

Section 462. No person, corporation or company shall sell, offer for sale or keep for sale, traffic in, barter or exchange for goods any intoxicating liquors except as hereinafter provided. Intoxicating liquors shall be deemed to include whisky, brandy, rum, gin, wine, ale, porter, beer, hoochinoo, and all spirituous, vinous, malt and other fermented and distilled liquors.

Section 463. License shall be issued by clerk of District Court on order of the judge.

Section 464. Majority of white residents within two miles must consent.

Section 465. Particular place of business must be described and business must be carried on by applicant himself, not by agent.

Section 466. Must not sell to minor, Indian, intoxicated person or drunkard.

Section 468. There are two classes of liquor licenses, that for wholesale liquor dealers and for barrooms. The wholesale license shall be $2,000 per annum. For a barroom the license shall be $1,000 where the population is 1,500 or more, $500 if upward of 1,000. In towns, camps and settlements of more than 1,000 or less than 1,500 the license shall be $1,000.

Wholesale dealers must not sell in quantities less than one gallon.

Section 469. License must be framed and posted in conspicuous place.

Section 471. Druggists must not sell except on prescription of reputable physician.

Section 472. Penalty for sale without license.

Section 475. No license can be granted for sale within four hundred feet of schoolhouse or church.

Section 478. No females or minors shall be employed.

THE NICHOLSON LAW OF INDIANA.—

Approved March 11, 1895.

Section 1 provides for an accurate description of the room in which the liquors are to be sold. The applicant must be a male citizen and over 21, and of good moral character.

Section 2 says that room must be separate from any other business, without any partition in the room or any devices for amusement or music of any kind. The applicant may carry on other business by so stating in his application for license.

Section 3 makes it unlawful for anyone other than the proprietor or his family to enter his saloon at any time when it is unlawful to sell on Sunday and holidays.

Section 4 requires a saloon to be located on the ground floor and fronting the street, and an unobstructed view of the room must be had from the street at such times as the sale of liquor is forbidden by law, and if not complied with at such times will be *prima facie* evidence of guilt in court.

Section 5 forbids the loitering of boys in saloons.

Section 6 forbids the sale of liquors in any manner to minors.

Section 7 provides for the enforcement of the law by sworn and special officers.

Section 8 limits the liquor licenses to one for each person, the applicant being the owner and the proprietor of the business and a resident of the township.

Section 9 provides for prohibition. A majority of the voters of any township or ward can file a remonstrance with the county auditor three days prior to the meeting of the

board of county commissioners, and may prevent the issuance of a license at any time within two years.

Section 9½ prohibits drug stores from selling in less quantities than a quart except on prescriptions.

Section 10 applies the provisions of the act to persons and liquor resorts, whether doing business under state or national laws.

IOWA MULCT LAW.—

Approved March 29, 1894.

Section 1. Provides for assessment of a tax of $600 per annum against liquor dealers and against the real property on which it is sold.

Section 2. Assessor is to return a list of places in December, March, June and September of each year.

Section 3. If assessor fails to return list, any three citizens of the county may do so.

Section 4. Provides for applications to board of supervisors to abate the tax.

Section 5. Proceedings and appeal in case of such application.

Section 6. Trial of appeal.

Section 7. Pro rata abatement of tax where sales have not continued more than six months in the year.

Section 8. No board of equalizations for these taxes.

Section 9. Levy of the tax by board of supervisors in each September.

Section 10. County auditor certifies tax and costs to county treasurer.

Section 11. Fixes a penalty of twenty per cent if not paid semi-annually when due.

Section 12. Provides for sale of property for taxes not paid.

Section 13. Provides for application of general laws for assessment, levy and collection of the taxes.

Section 14. Provides that one-half of the revenue derived shall be paid into the general county fund and one-half to the municipality.

Section 15. County attorney must enforce the law and any officer failing to comply with the law shall be removed from office.

Section 16. Provides that the act does not legalize the business nor protect the dealer from any penalty, except that certain penalties may be suspended.

Section 17. Provides for suspension of penalties in cities of 5,000 or more inhabitants in certain cases.

Dealer must have consent of majority of voters in city and of each resident property owner within fifty feet of premises, which must not be within three hundred feet of any church or schoolhouse. Must file $3,000 bond for observance of provisions of the act and for payment of any civil damages resulting from the sale of liquor.

Business must be carried on in a single room, having but one entrance or exit and that opening upon a public business street. The bar must be in plain view from the street and unobstructed by screens, blinds, painted windows, or any other device. List of employes must be filed with county auditor and no one else be permitted behind the bar.

There must be no chairs or benches in front of the bar, no games of any kind played and no music, dancing or other entertainment. The place must not be open earlier than 5 a. m., nor later than 10 p. m., nor on election days or holidays, nor in the evening of such days.

No minor, drunkard or intoxicated person shall be allowed in the room and no sales made to them or to any person who has taken any "cure for drunkenness," nor to any person whose wife, husband, parent, child, brother, sister, guardian, ward or employer shall forbid such sale.

Section 18. Contains provisions for sale in cities or towns of less than 5,000 inhabitants.

Section 19. City council by vote or a majority of the voters by petition may remove the bar to proceedings of section 17.

Section 20. Prescribes requisites of petitions.

Section 21. All papers subject to inspection by any citizen.

Section 22. A gift of liquor constitutes a sale.

Section 23. Payment of tax shall not be used as evidence against person paying it.

Section 24. Cities and towns may collect additional taxes and further regulate and control the business.

THE THORNE BILL OF KENTUCKY.—

The following is the full text of the Thorne anti-private brand bill of Kentucky, passed in 1896:

SENATE BILL NO. 174.

An act to protect distillers, warehousemen, purchasers and holders of warehouse receipts against fraud and duplicity, and to provide a punishment and penalty for a violation thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. That every person (firm, joint stock company or corporation) who produces distilled spirits, or who brews or makes mash, wort or wash fit for distillation, or for the production of spirits, or who by any process of evaporation separates alcoholic spirits from grain, molasses or fruits, or any other substance fermented, or who, making or keeping mash, wort or wash, has also in his possession or use a still, is within the meaning of this act a distiller.

Sec. 2. That it shall be unlawful for any distiller to manage and operate a distillery in this commonwealth under any other than his actual or real name, or under such one distinguishing trade or business name or style as he shall have openly adopted for carrying on the business of his distillery, and no distillery shall be operated under more than one name or style during any one distilling season, beginning the first day of August in each year and ending the thirty-first day of July in the succeeding year, except in case of death, insolvency or actual sale, or *bona fide* lease of the distillery, and only then after the distillery has ceased operations for a period of at least thirty days.

Sec. 3. That it shall be unlawful for any distiller in this commonwealth to hold out or represent to the public the products actually distilled by him at his distillery as having been distilled by any other person, firm, joint stock company or corporation.

Sec. 4. That it shall be unlawful for any person, firm, joint stock company or corporation, not actually engaged at the time in the business of producing distilled spirits in this commonwealth, to permit his or its individual business or name to be used by any distiller as the operator of his distillery, and anyone so offending shall be subject to an indictment in any court of competent jurisdiction and, upon conviction, shall be fined in any sum not less than five hundred dollars nor more than two thousand dollars for each offense at the discretion of the jury.

Sec. 5. That any distiller or other person who shall willfully and knowingly violate or evade or attempt to evade any of the provisions of the foregoing act shall be guilty of a misdemeanor, and shall be subject to an indictment in any court of competent jurisdiction, and upon conviction shall be fined in any sum not less than two hundred dollars nor more than one thousand dollars for each offense, at the discretion of the jury. Each day that a distillery is operated contrary to the provisions in this act shall constitute a separate and distinct offense.

Sec. 6. That no person, firm or corporation shall issue or sign any warehouse receipt, or substitute for such receipt on whisky stored in a distillery bonded warehouse in this commonwealth, except the distiller, and any person other than the actual owner and operator of a distillery who shall issue or sign any warehouse receipt, or substitute therefor, in violation of section 2 of this act, shall be guilty of a felony, and upon indictment and conviction be confined in the penitentiary for a period of time, not less than two nor more than ten years, in the discretion of the jury.

Sec. 7. That any distiller may use and brand upon the commercial head of a package or cask any name or device as

his trademark selected and owned by him, or the name or trademark of any customer of said distiller. But nothing herein shall permit any such brand or name or trademark to be put upon the stamphead of such package or cask.

THE MICHIGAN LAW.—

Approved June 28, 1897.

Section 1. Amount of Annual Tax.—Retail dealers, $500 per annum. Wholesale and retail dealers in malt liquors, $500. Wholesale spirituous liquors, $500. Wholesale and retail spirituous liquors, $800. Brewers, $65. Distillers, $800.

Section 2. Retail dealers are those who sell only in quantities of three gallons or less,, or one dozen quart bottles or less. Wholesale dealers those who sell in larger quantities. No tax is required for sale of wine or cider made from fruits grown in the state, except where sold by the drink.

Section 3. Druggists may sell for chemical, scientific, medicinal, mechanical or sacramental purposes, but must not sell to a minor except for medicinal or mechanical purposes and on written order of parent or guardian, and must not sell to adult who is intoxicated or in the habit of getting intoxicated, nor to an Indian, nor to any person when forbidden by husband, wife, parent, child, guardian, employer or officer. And druggists must give bond before selling and must keep a public record of all sales.

Sections 4, 5 and 6. Provisions for obtaining permission to sell.

Section 7. Penalties for violation of law.

Section 8. Bond of from $3,000 to $6,000 required for keeping law and paying all civil damages.

Sections 9 to 12. Disposition of tax and duties of officers.

Section 13. Liquors must not be sold to any minor, intoxicated person, any person in the habit of getting intoxicated, Indian, person forbidden by husband, wife, parent, child, guardian, employer or officer.

Section 14. No student or minor can be permitted to play at billiards or any game of chance in place of business.

Section 15. Minor must not be allowed to visit or remain in saloon unless accompanied by parent or guardian.

Section 16. Liquors not allowed in any concert hall, variety show, theater or other place of amusement or in any building or room opening in any such place.

Section 17. Saloons must be closed on Sunday, election days and holidays until seven o'clock the next morning and every night from nine o'clock to seven o'clock the next morning; except that city councils may permit them to be open from six o'clock in the morning to eleven o'clock at night.

Section 20. Person selling liquor is made liable for all civil damages caused or contributed to by the intoxication of any person to whom such liquor is sold.

Section 25. Liquors must not be adulterated by mixing with any deleterious drug, substance or liquid, which is poisonous or injurious to health. And dealers must not sell any such adulterated liquors, on penalty of fine and imprisonment.

Section 26. Each barrel, cask or other vessel containing liquor must be branded with the name of manufacturer or rectifier and with the words, "Pure, and without drugs or poison."

Section 31. Screens must be removed during hours of closing so as to permit view of bar from the sidewalk, street or alley.

The pure food law of 1895 provides:

Section 16. No person shall manufacture, brew, distill, have or offer for sale any spirituous or fermented or malt liquors containing any substance or ingredient not normal or healthful to exist in spirituous, fermented or malt liquors or which may be deleterious or detrimental to health when such liquors are used as a beverage.

MINNESOTA LIQUOR LAWS.—

"Intoxicating liquor," wherever used in the laws of Min-

nesota, shall be understood to mean spirituous, vinous, malted and fermented liquors.

LICENSE OR NO LICENSE—IN VILLAGE.

The legal voters of any incorporated village or township have the power to determine, by vote, for themselves whether license for the sale of intoxicating liquor, as a beverage, shall be granted or not.

Notice of vote, in a village, to be taken upon this question shall be given by the village recorder for at least ten days prior to any annual election, upon petition of ten or more legal voters, which petition must be presented not less than fifteen days prior to the election.

IN TOWNSHIPS.

Notice of vote to be taken in townships shall be given by the town clerk at the same time and in the same manner that notices of annual town meetings are given.

The vote upon such question shall be by ballot containing the words "Against License" or "In Favor of License," and shall be taken, canvassed, returned and announced in the same manner as votes for village officers. If a majority of the votes case are "Against License," no license shall be granted by the authorities of such village.

LICENSE LAW.

No person is in any manner protected by any permit or license issued by the proper parties, unless he shall have paid the full amount required by the law.

All licenses must be posted up in the room where the business is carried on, and must distinctly state the amount paid therefor, and contain a description of the premises where liquor is to be sold.

Whoever sells under a license in a place other than the one therein described is guilty of selling without a license.

No license shall be granted to any person who, during the twelve months next preceding the application for such issuance, shall have been convicted of violating any law regulating the sale of intoxicating liquors.

Any officer neglecting or refusing to perform any duty

required of him by laws regulating the liquor traffic is guilty of malfeasance in office and subject to fine and disqualified from holding the office during the remainder of his term.

It is unlawful to sell liquor to any minor, student or pupil in any public school or academy, or to an intemperate drinker or habitual drunkard. And the license of one who sells to a minor or habitual drunkard after legal notice has been given not to sell to such person is void. It is also unlawful to allow a minor to throw dice or play cards, billiards or pool where liquor is sold.

It is unlawful to sell liquor in any city, village, town or borough on the Sabbath day or on any general or special election day.

The name or kind of intoxicating liquor is immaterial in a prosecution; and the finding of liquor on the place is *prima facie* evidence of their sale, and the fact of one's drinking what appears to be intoxicating liquor is *prima facie* evidence that it was intoxicating. And proof that the accused has paid the United States revenue tax, or has procured a receipt for such payment, covering the time in which it is alleged the accused has sold without a license, is *prima facie* evidence of such sale.

All places where liquors are sold (hotels excepted) must close at 11 o'clock at night and remain closed till 5 in the morning.

Blind pig proprietors and others attempting to evade the law in any manner are subject to fine and imprisonment, as is also the owner, lessee, or person in possession or control of the premises on which any such means are resorted to to evade the law, if he knowingly consents to or aids in such evasion.

It is the duty of every sheriff, deputy sheriff, police officer or other peace officer to arrest any person violating any provision of the liquor laws. And it is the duty of the county attorney to prosecute all violations upon complaint properly made.

Druggists can sell liquor only upon the written prescription of a duly licensed physician, and any druggist or physician who disposes of or aids in disposing of any liquor except for medicinal purposes is guilty of a misdemeanor.

Whoever sells, disposes of or gives to any Indian within the state any spirituous liquors or wine is liable to imprisonment in the state's prison not exceeding two years and subject to a fine not to exceed $200.

Non-residents are not entitled to a liquor license under any conditions.

A license cannot be granted for less than one year.

Licenses must be in writing, a parole license, even when given by the proper authorities, and money paid will not protect the seller.

It is unlawful to allow gaming tables of any kind, except billiard and pool tables, in any room where liquor is licensed to be sold, or to allow any game of any kind to be played in such room.

NEW YORK.—

This state is under the Raines law, passed November 23, 1896, and amended April 20, 1897, a summary of whose provisions as amended is given herewith:

It provides—

That the word liquor shall mean all distilled or rectified spirits, wines, malt and fermented liquors.

That all liquor tax certificates will be issued by the state commissioner practically without discrimination to anyone who pays the required fee, whether it be for a dive or a palace.

That every liquor tax certificate in New York City will cost $800 a year; in Brooklyn, $650; in Buffalo and other leading cities, $500; in cities under 50,000 inhabitants, $350; in towns under 10,000, $300; in villages under 5,000, $200; in any other place, $100.

The tax certificates for the sale of bottled goods and liquors not to be drunk on the premises grade from $500 in New York City to $50 in the smallest boroughs.

That every dining car, buffet car and steamboat will be charged $200 for a liquor license.

That towns can vote on local option every two years.

That the consent of two-thirds of the owners of dwelling-houses within 200 feet of a place must be secured before a certificate will be granted.

That a bond double the amount of the tax must be furnished, which is liable for every violation of the liquor tax law.

That the tax certificate must be posted in a window facing the street on the ground floor, if the entrance is on that floor.

That no dry goods, grocery, provision or drug store keeper can sell liquors to be drunk on the premises unless in some place entirely distinct from the regular place of business.

That only citizens of the United States and of New York can secure tax certificates.

That no liquor can be sold in any building belonging to the public.

That no bar can be within 200 feet of a schoolhouse or church, except in hotels.

That no liquor can be sold anywhere on Sunday or between 1 and 5 a. m. on week days, except in hotels with meals or in rooms.

That no screens or shades can be drawn to conceal the interior of the place during prohibited hours.

That any person selling liquor without a tax certificate shall be fined not less than twice the amount of the annual tax. This would make the fine $1,600 in New York City.

That anyone violating the provisions of this act shall be fined not more than $500 or imprisoned for one year and forfeit the year's certificate. Two convictions will bar for five years the securing of a new certificate.

The chief amendments to the Raines act are:

All clubs in which liquor is distributed must pay the same tax as hotels and saloons. They are not subject to

visitation by excise inspectors, except on the direction of the excise commissioner. They may distribute liquors to their members at any time, provided they were incorporated prior to March 23, 1896, the date when the original tax law was signed. Clubs organized since that time will not be permitted to distribute liquor on Sundays, election days, or between the hours of 1 and 5 o'clock in the morning.

Hotels, within the meaning of the law, are such as have at least ten bedrooms for guests above the basement floor. These must be separated by partitions not less than three inches thick, which must extend from floor to ceiling. Independent access to every room must be provided from a hallway. Every room must have at least eighty square feet of floor space and 600 cubic feet of air space. A window must be provided for every room. The hotel dining room must contain at least 300 square feet of floor surface, and have accommodations for at least twenty diners. The bar may not be in the dining room. Guests of hotels are defined to be persons who hire rooms at regular rates not merely to be served with drinks, or such as resort to the hotel for meals at the regular hours when meals are served.

Beer bottlers will have to pay a tax of $100 for every delivery wagon they employ.

The pharmacists' tax has been reduced to $25 in the city and $5 in the country towns.

Dry goods and grocery storekeepers may not sell liquor except in a room which has no entrance from the main store.

A dealer in liquors who knowingly employs in his business a man who had been convicted of a felony is guilty of misdemeanor.

Liquors may not be sold to a minor to be used by another.

Permits to sell liquor all night at balls and entertainments may be obtained of the mayors of cities of the first class for $5 a night.

Any citizen may secure an injunction to restrain the illegal sale of liquor.

Violators of the law in New York City are to be tried exclusively in the Court of Special Sessions. (No jury.)

THE DOW LAW OF OHIO.—

As originally passed May 14, 1886, with amendments to the present time:

Section 1. Provides for an assessment and collection of $350 per year on the business of trafficking in spirituous, vinous, malt or any intoxicating liquors.

Section 2. Makes such assessment a lien on the real property on which the business is conducted. One-half must be paid on or before June 20 and the remainder on or before December 20 of each year.

Section 3. When business is commenced after the fourth Monday of May the assessment is proportionate to the remainder of the assessment year, except that it cannot be less than twenty-five dollars, and must be paid within ten days after commencing business. In case of a discontinuation of business a refunding order may be obtained for a proportionate amount of the assessment.

Section 4. Provides for collection by county treasurer in case of refusal or neglect to pay the assessment.

Section 5. Assessor shall return a statement of such business places. Penalty of twenty per cent to be added if not paid when due.

Section 6. County auditor to enter assessment for places not returned by assessor.

Section 7. General state laws for collection of taxes made applicable to this assessment.

Section 8. "Trafficking in intoxicating liquors" means buying or procuring and selling them otherwise than upon prescription of physician, or for exclusively known mechanical, pharmaceutical or sacramental purposes, but does not include their manufacture and sale at the manufactory in quantities of one gallon or more at any one time.

Section 9. Provides for disposition of such revenue.

Section 11. Forbids sale on Sunday and requires closing

of room where sold, and provides for control by municipal corporation.

Section 12. Forbids sale to minor, or intoxicated person or person in the habit of getting intoxicated.

OHIO PURE FOOD LAWS.—

Act of March 21, 1887:

Section 1. It is the duty of the dairy and food commissioner to inspect articles of food or drink made or offered for sale in the state of Ohio.

Section 2. Gives authority to commissioner and his assistants to enter any place where food or drink are made, prepared, sold or offered for sale, and to examine books, open casks, tubs or bottles and analyze contents.

Act March 20, 1884:

Section 4. Every person manufacturing, offering for sale or delivering to purchaser must sell "any person interested, on demanding the same, and who shall tender the value of the same, a sample sufficient for analysis of any article of food which is in his possession." Section 2 of the same act says the term "food" shall include all articles used for food or drink by man.

Section 7082 R. S. Prohibits manufacture and sale of spirituous, alcoholic or malt liquors containing glucose "or any other substance which is poisonous or injurious to health, or any substance not a necessary ingredient in the manufacture thereof."

WINES.

Act of September 1, 1889:

Section 1. The manufacture and sale of adulterated wines is prohibited.

Wines artificially charged with carbonic acid gas are classed with adulterated wines.

Section 2 describes pure wines.

Wines clarified are not "pure wines."

Section 3 describes "wines."

May be clarified. Pure white or crystallized sugar may be added, but must not be flavored or colored.

Section 4 describes "compound wines." May contain less than 75 per cent of pure undried grape juice and be fortified by spirits. For complete definitions see law.

BRANDING AND LABELING.

Wines must be branded and labeled according to these definitions. Casks, kegs and boxes must be branded on both ends in black letters, at least one inch high and of proper proportions, "Compounded Sweet Catawba Wine" or "Compounded Port Wine," or whatever the name of the wine may be. Bottles shall be labeled in letters at least one-fourth of an inch high.

Wines must, according to definitions, be invoiced as either "pure wines," "wines" or "compounded wines."

None must be sold and shipped without brands or labels on each package.

When shipped the barrel, keg or case is a "package." When the case is opened each bottle becomes a separate "package" and must at once be labeled.

ALL LIQUORS.

Each package containing intoxicating liquor must contain the "name of the person or company manufacturing, rectifying or preparing the same, and also the words 'containing no poisonous drugs or other added poison.'"

"Whoever uses any active poison in the manufacture or preparation of intoxicating liquor, or sells in any quantity any intoxicating liquor so manufactured or prepared, shall be imprisoned in the penitentiary not more than five years, nor less than one year."

The dairy and food commissioner holds that all whisky below proof is adulterated, as not coming up to the standard as laid down in the American Pharmacopoeia.

RULES AND REGULATIONS.—

For the guidance of the wine and liquor trade of Ohio. (Approved by Hon. F. B. Neal, dairy and food commissioner.) Issued by the Ohio W. & S. Association.

BLACKBERRY BRANDY AND CORDIALS.

Blackberry cannot be sold in the state of Ohio under the name of "blackberry wine," because it is not the fermented juice of blackberries. It cannot be sold as "blackberry brandy," because it is not distilled from blackberries. "Blackberry cordial" cannot be sold in the state of Ohio, unless it is made entirely from blackberries.

No cordials of any kind can be sold if they contain any salicylic acid or other antiseptic, and glucose must not be used in the manufacture of them.

Every article must be sold for exactly what it is. For instance: Gin must not be sold for "Holland" gin, unless it is manufactured in Holland, and "cognac" or "French" brandy must not be sold, unless it is manufactured in France, and "Jamaica" or "Santa Cruz" rum must not be sold under that name, unless it is imported.

The sale of brandy is prohibited, unless it is distilled from grapes or grape juice, and when manufactured in this country it must not be sold as foreign brandy; and apple and peach brandy must not be sold, unless distilled from the fruit.

WINES.

The laws of Ohio on the subject of wines are very clear and very strict. Pure wine must be the fermented juice of the grape and nothing else, and only such wines can be sold and branded or labeled as "pure wine."

When, however, processes of clarification have been used, or white or crystallized sugar has been added, then the laws of Ohio say that such wines must be sold, branded and labeled as "wine," and the word "pure" must not be used.

All sweet catawba, sherry or port wines, imported or native, and all wines sweetened or fortified must be sold as "compounded wine" and must be so branded and labeled.

Every bottle of wine held in stock must be labeled according to all the above instructions, and the letters used for labels on bottles must not be less than one-quarter of an inch high.

All cases, kegs, barrels, casks and so forth containing wines must be marked on both ends as "wine" or "compounded wine," as the case may be, in black letters not less than one inch high, and all that is here said as to labeling bottles holds good as to jugs, flasks or any other receptacle in which it is sold or delivered.

All wines which are not manufactured of grape juice are considered adulterated.

All wines, whether pure grape juice or not, if found to contain salicylic acid or any other antiseptic forbidden by law, or artificially charged with carbonic acid gas, are considered adulterated and the manufacture and sale of all such wines is absolutely prohibited.

LIQUORS.

Every jug, bottle, flask, keg, barrel or other receptacle containing intoxicating liquors, imported or domestic (wine excepted), and any vessel or receptacle in which intoxicating liquor is sold or delivered must be labeled or branded with the words "Containing no poisonous drugs or other added poison," together with the name of the person or firm preparing the package.

When a dealer sells a keg, jug, bottle or any other package which is already labeled or branded by the person or firm which has produced the same, then the dealer need not put on his own label or brand or name, but when the dealer fills any keg, jug, bottle, flask or any other receptacle from another package then he must put the label or brand with his own name on such keg, jug, bottle, flask or any other receptacle in which he sells or delivers the goods.

UNDERPROOF WHISKY AND LIQUORS.

The dairy and food commissioner rules that all whisky to be sold as "whisky" in Ohio must not contain less than 41 per cent by weight equal to 50 per cent by volume of absolute alcohol, which means 100 degrees proof by United States government standard, and hereafter, in Ohio, the whisky of commerce known as underproof whisky, when below 100 degrees of United States government standard must be called,

branded, labeled and sold in Ohio by a name without the use of the word "whisky;" and the proofs at which various other liquors may be sold have been designated by the commissioner as follows:

BRANDIES.

Minimum 39 per cent by weight or 46 per cent by volume of absolute alcohol, equal to 92 degrees of United States government standard.

WHISKY.

Minimum 44 per cent by weight or 50 per cent by volume of absolute alcohol, equal to 100 degrees of United States government standard.

FRENCH COGNAC.

Minimum 47 per cent by weight or 55 per cent by volume of absolute alcohol, equal to 110 degrees of United States government standard.

RUM.

Minimum 42 per cent by weight or 49 per cent by volume of absolute alcohol, equal to 98 degrees of United States government standard.

GIN.

Minimum 40 per cent by weight or 47 per cent by volume of absolute alcohol, equal to 94 degrees United States government standard.

It is not necessary to label bar bottles from which wine or liquors are sold.

The commissioner also rules as follows:

Alcoholic strength of wines United States Pharmacopoeia.

WHITE WINES.

Not less than 12.4 per cent nor more than 17.3 per cent by volume of absolute alcohol.

RED WINES.

Not less than 12.4 per cent nor more than 17.3 per cent by volume of absolute alcohol.

THE PENNSYLVANIA LAW.—

APPROVED JULY 30, 1895.

Section 1. All wholesale dealers, brewers, distillers, rectifiers, compounders, bottlers, storekeepers and agents dealing in intoxicating liquors, either spirituous, vinous, malt or brewed, shall pay for each separate store, brewery, distillery, rectifying, compounding or bottling establishment or agency annual licenses as follows:

Brewers producing less than 1,000 barrels the preceding year, $250; more than 1,000 barrels and less than 2,000 barrels, $300; more than 2,000 barrels and less than 3,000 barrels, $400; more than 3,000 barrels and less than 5,000 barrels, $500; more than 5,000 barrels and less than 10,000 barrels, $750; more than 10,000 barrels and less than 20,000 barrels, $1,000; more than 20,000 barrels and less than 30,000 barrels, 1,250; more than 30,000 barrels and less than 40,000 barrels, $1,500; more than 40,000 barrels and less than 50,000 barrels, $1,750; more than 50,000 barrels and less than 60,000 barrels, $2,000; more than 60,000 barrels and less than 70,000 barrels, $2,250; more than 70,000 barrels and less than 80,000 barrels, $2,500; more than 80,000 barrels and less than 90,000 barrels, $2,750; more than 90,000 barrels and less than 100,000 barrels, $3,000; more than 100,000 barrels and less than 150,000 barrels, $4,000; more than 150,000 barrels and less than 200,000 barrels, $4,500; more than 200,000 barrels and less than 300,000 barrels, $5,000; more than 300,000 barrels, $6,000.

Distillers producing less than 50 barrels the preceding year, $100; more than 50 barrels and less than 100 barrels, $200; more than 100 barrels and less than 200 barrels, $250; more than 200 barrels and less than 300 barrels, $300; more than 300 barrels and less than 400 barrels, $400; more than 400 barrels and less than 500 barrels, $500; more than 500 barrels and less than 3,000 barrels, $1,000; more than 3,000 barrels and less than 5,000 barrels, $1,250; more than 5,000 barrels and less than 10,000 barrels, $1,500; more than 10,000

barrels and less than 20,000 barrels, $1,750; more than 20,000 barrels, $2,000.

New distilleries and breweries must pay $1,000 for the first year without regard to the amount produced.

Brewers paying $1,000 may sell to licensed liquor dealers malt liquors manufactured by them in packages of not less than twelve pint bottles or casks of not less than one-eighth barrel.

Brewers and distillers may deliver their product in the county where they are licensed.

Bottlers in cities of the first and second class pay $500 license; in all other cities, $350; in boroughs, $250, and in townships, $125 per year.

Wholesale dealers pay, in cities of the first and second class, $1,000; in other cities, $500; in boroughs, $200, and in townships, $100 per year.

Rectifiers, compounders, storekeepers or agents pay the same license as wholesale dealers.

Licenses are to be collected by county treasurer.

Section 2. Licensed retail dealers shall pay annually for the state, in addition to the license already provided, the sum of $100 in cities of the first and second class, $50 in other cities and boroughs and $25 in townships.

The previous law, approved May 24, 1887, provides:

Section 1. License must be obtained for sale of liquors by retail in any house, room or place, hotel, inn or other tavern.

Section 2. License can only be granted for sale at retail in quantities less than one quart to citizens of the United States of temperate habits and good moral character.

Section 3. Granted only by Court of Quarter Sessions of the county for one year.

Section 4. Proceedings for obtaining license. License to sell in room where groceries are sold prohibited.

Section 5. Requisites of petition.

Section 6. Certificate of twelve reputable electors of

ward, borough or township that statements in petition are true.

Section 7. Remonstrances to be considered and license may be revoked for violation of law.

Section 8. License fee for cities of first, second and third class, $500; other cities, $300; boroughs, $150; township, $75.

Section 9. License must be paid within fifteen days from time of granting petition.

Section 10. Two thousand dollar bond required for compliance with law and damages.

Section 11. Constables to make report to court of all places where liquors are sold.

Section 12. Constables must visit each place at least once each month.

Section 13. License must be framed under a glass and placed in conspicuous place where it can be read.

Section 14. Trust or credit for sales prohibited and debts cannot be collected for liquors sold.

Section 15. Penalties provided for sale without license or violating license law or keeping disorderly house.

Section 16. Druggists and apothecaries do not need license, but can sell only on prescription of physician, except that alcohol may be sold for scientific, mechanical or medicinal purposes.

Section 17. Sale or gift on election day or Sunday, or to minors or drunkards and exchange for goods or sale on store orders prohibited.

Section 18. Place where laws are violated to be declared a nuisance and abated.

THE DISPENSARY LAW OF SOUTH CAROLINA.—

Approved March 5, 1897.

Section 1. Prohibits, under penalty of fine or imprisonment, the manufacture, sale, barter or exchange, receipt or acceptance for unlawful use of any intoxicating liquors, and declares all alcoholic liquors not tested by state chemist to be of a detrimental character. Provides for seizure of

such liquors wherever found, without a warrant, and also provides restrictions on importation of liquors by private person.

Section 2. Establishes state board of control of five members, to purchase all liquors for lawful sale.

Section 3. Board to appoint commissioner, to furnish liquors to dispensers. Dispensers to remit to state treasurer all money accruing to the state. Board to make rules governing commissioner and dispensers. Liquors shipped to have proper certificate or be seized and forfeited. Common carrier not to transport liquors without such certificate under penalty of fine of $500.

Section 4. All liquor shipped by commissioner except beer to be put into sealed packages from half pint to five gallons, and dispenser must sell in packages only and must not open them. Purchasers must not open the packages on the premises. Malt liquors may be sold by the dispensers in any quantity not less than one pint, but must not be drunk on the premises. Dispensers must sell only in the day time.

Section 5. State board shall appoint a county board of three persons who shall make rules for their counties, subject to state board.

Section 6. County dispensers appointed on petition and must give bond for fines, penalties, damages and costs, including civil damages to individuals.

Section 7. County board to fix places for dispensaries, subject to remonstrance by a majority of voters of the township in which it is located.

Section 8. Qualifications of dispenser. Their appointment subject to revocation.

Section 9. Duties and compensation of county boards and dispensers. Profits to be paid half to county and half to town or city weekly, and dispensers must make quarterly settlements.

Section 10. Dispensers can sell liquors only on written requests and shall refuse such requests from minors and persons in the habit of drinking to excess.

Section 11. Such requests must be made on proper blanks furnished by state board and numbered consecutively and preserved for the quarterly settlements.

Sections 12 and 13. Return of such blanks to county auditor by dispenser and penalty for failure. Dispenser must sell no liquor except that furnished by state commissioner.

Section 14. Proceedings to punish dispenser for violation of law and penalty for making fraudulent representations to dispenser to obtain liquor.

Section 15. No person to sell liquors except dispensers, but private persons or corporations may obtain from state board permits to manufacture or distill liquors under state supervision. Any person may make wine for his own use.

Section 16. Dispenser must keep record of liquors received.

Section 17. Payments of United States special tax as liquor seller are made *prima facie* evidence of violation of law.

Section 18. Druggists and manufacturers of proprietary medicines authorized to purchase liquors of dispensers for compounding medicines, tinctures and extracts that cannot be used as a beverage, and must keep record of use of same. Druggist must not sell any liquor except when so compounded under penalty of forfeiture of license.

Sections 19 and 20. Penalty for false signatures, statements and oaths.

Section 21. Liquors at clubs prohibited, but permitted at hotels if bought of state dispensary.

Section 22. Procedure to close all places selling illegally.

Section 23. Report of distillery manager.

Section 24. Search warrant provisions.

Section 25. Liquors contraband may be taken by officer without any warrant.

Sections 26 and 27. Possession of illicit liquors de-

cared unlawful and debt for purchase price or transportation cannot be collected, and liquors may be seized.

Sections 28 to 33. Carriage or transportation of falsely branded packages forbidden and seizure and forfeiture of same with penalties provided for.

Sections 34 to 38. Penalties for violation of law generally.

Section 39. Dispenser must cancel label on package when he sells it.

Section 40. Transportation company to be liable for treble the invoice price of any liquors lost or stolen in transit to or from the dispensary.

Section 41. Officers must notify the circuit solicitor of any violation of the law, under penalty.

Section 45. The governor may appoint state constables and detectives to see that the act is enforced.

TEXAS LIQUOR LAWS.—

The following is synopsis of the liquor laws of the state of Texas:

Outside of local option districts: For selling spiritnous, vinous or malt liquors, or medicated bitters, each separate establishment, one gallon or less $300 per annum. One gallon or more $300, provided that in selling one gallon the same may be made up in unbroken packages aggregating not less than one gallon.

For selling malt liquors exclusively, $50.

For selling in local option districts, on doctor's prescription, $200.

Application for license shall be filed under oath with county clerk designating place of business.

Not more than one quart in local option districts, can be sold to one person at one time on prescription.

Annual license to be paid in advance.

Counties and incorporated towns or cities levy one-half of state tax each. In San Antonio for instance, total whisky tax amounts to $600.

Licenses must be exhibited in conspicuous place.

In local option districts, bond $2,500. Conditions: To sell not more than one quart, on prescription, not to be drank on premises. No adulteration of liquor. No minors allowed on premises, except as druggist. Shall keep an open orderly house.

Breach of bond subjects to damages to parties injured and fine of $250 for each infraction. New bond can be demanded on ten days' notice.

No license issued for shorter period than one year.

Change of place of business can be made on application to county clerk. Temporary closing to do business in another place prohibited.

County clerk makes monthly report to state revenue agent.

General barroom bond, $5,000.

Exclusive malt bond, $1,000.

Shall keep an open, quiet and orderly house.

Shall not sell to minors, to students, to habitual drunkards, or to any person after notification through sheriff or other peace officer by wife, mother, daughter or sister.

Not to permit any person under 21 to enter and remain in house or place of business.

Not permit any games prohibited by state, or let any part of house for gaming.

Not adulterate liquors in any manner by mixing same with drugs.

For each infraction $500 fine and in addition civil damages. New bond can be required on twenty days' notice; cannot do business until made.

Subject to penalty for doing business without bond.

Open house; no screen.

Quiet house; no music, loud or boisterous talk, yelling, indecent or vulgar language or other noise calculated to disturb or annoy anyone in vicinity.

Orderly house; in which no prostitute or lewd woman or women are allowed to enter or remain.

No vulgar or obscene pictures exhibited.

Habitual drunkard: One who makes it a habit or who habitually becomes intoxicated by the voluntary use of intoxicating liquors. The question to be decided by judge or jury.

Native wines, in hands of producers or manufacturers, exempt.

For keeping open saloon on election day, or for selling or giving away any intoxicating liquor on election day, or for finding any intoxicating liquor near polling place, or for carrying liquors to sell or give away at polling place, a fine from $100 to $500.

TEXAS LOCAL OPTION LAW.—

As amended in '97. "The Commissioners' Court of each county in the State, whenever they deem it expedient, may order an election, to be held by the qualified votes of said county or of any commissioner's or justice's precinct, or school district, or any two or more of such political subdivisions of a county, to determine whether or not the sale of intoxicating liquors shall be prohibited in such county, or commissioner's or justice's precinct, or school district, or any two or more of any such political sub-divisions of such county, or in any town or city; provided, it shall be the duty of such commissioners court to order the election as aforesaid whenever petitioned so to do by as many as two hundred and fifty voters in any county or fifty voters in any other political sub-division of the county or school district, as shall be designated by said court, or in any city or town, as the case may be; provided, that if the precinct or precincts embraced within the limits of an incorporated town or city, then such election shall only be ordered when the petition for the same is signed by qualified voters, not less than one-tenth in number of the total vote cast for governor at the next preceding general election in such incorporated town or city; and in case an election is asked for a sub-division of said county composed of two or more com-

plete commissioner's or justice's precincts, or school districts, such petition shall describe such sub-division by metes and bounds, as well as by the proper number of such sub-division, shall be recorded in full in the minutes of the commissioners' court, and such description shall be embraced in the notice given for such election; provided, that where a school district, city or town, may be composed in part of two or more sub-divisions of the county named hereinbefore, the right to order and hold an election in such school district, city or town, shall not be denied; and provided further, that no city or town shall be divided in holding a local option election for any of the other sub-divisions named herein; nor shall any school district, which has adopted local option be divided in a subsequent election; held for any other sub-division concerning a part of the territory of such school district.

Sales of wine for sacramental purposes and alcoholic stimulants as medicine not prohibited.

Local option election ordered by county commissioners and conducted according to general elections.

If prohibition carries the county court shall declare result and issue order prohibiting sale of liquor.

Sale or giving away of liquor in local option districts punishable.

In case of prohibition carrying, saloonmen in business are returned the amount of their unexpired license fee.

Prohibition prevailing at an election, no election can be held on the question for two years. If against prohibition an election can be immediately ordered thereafter.

MASSACHUSETTS PROBATION LAWS.—

The probation laws of Massachusetts, approved May 28, 1891, provide as follows:

The justice of each municipal, police or district court shall appoint one person to perform the duties of probation officer under the jurisdiction of the court, and such probation officer shall hold his office during the pleasure of the court making the appointment.

The probation officers shall not be active members of the regular police force, but have all the powers of police officers.

The probation officers shall inquire into the nature of every criminal case brought before the court, and may recommend that any person convicted be placed upon probation. The court may place the person so convicted in the care of the probation officer for such time and upon such conditions as may seem proper. Each person released upon probation shall be furnished by the probation officer with a written statement of the terms and conditions of his release.

Compensation of probation officer is determined by the justice under whose jurisdiction he acts, and paid by the county.

Amendment approved May 12, 1894.) When a person has been placed on probation, the court may direct and authorize the probation officer to expend for the temporary support of such person, or for his transportation, such reasonable sum as the court shall consider expedient.

(Amendment approved April 3, 1897.) Any probation officer may, without warrant or other process, at any time until final disposition of the case, take any person placed in his care by any court and bring him before the court, or the court may issue a warrant for the re-arrest of any such person; and the court may thereupon proceed to sentence or may make any other lawful disposition of the case.

(Amendment approved April 10, 1897.) The chief justice of the Municipal Court of the city of Boston may appoint two women to act as assistants to the probation officer. It shall be their duty to investigate the cases of all women against whom a criminal charge is brought in said court.

(Chapter 427, 1891.) The probation officers shall obtain and furnish information in regard to previous arrests, convictions and imprisonments for drunkenness, and such other

facts as the court shall direct, concerning persons accused of drunkenness.

They shall keep a full record, well indexed, of each such case investigated, in such form as the court shall direct.

(Chapter 414, 1893.) Whoever arrests a person for drunkenness shall make a complaint against him for that offense. Any person so arrested may make to the officer in charge of the place of custody in which he is confined a written statement, addressed to the court having jurisdiction of his case, giving his name and address, what persons, if any, are dependent upon him for support, his place of appointment, if any, and whether he has been arrested for drunkenness before within the twelve months next preceding, together with a request to be released from custody. The probation officer shall inquire into the truth or falsity of such statement and into the record of said person as to previous similar offenses and report to the court, and the court, thereupon, in its discretion, may direct that such person be released from custody without arraignment.

CHAPTER II.

GENERAL LAWS.

THE NATIONAL BANKRUPTCY ACT.—

The law provides for both voluntary and involuntary bankruptcy. As to the latter the bill defines an act of bankruptcy by a person to consist of his having conveyed, transferred, concealed or removed, or permitted to be concealed or removed, any part of his property with intent to hinder, delay or defraud his creditors, or any of them, or transferred while insolvent any portion of his property to one or more of his creditors with intent to prefer such cred-

itors over his other creditors, or suffered or permitted while insolvent any creditor to obtain a preference through legal proceedings and not having at least five days before a sale or final disposition of any property affected by such preference vacated or discharged such preference, or made a general assignment for the benefit of his creditors, or admitted in writing his inability to pay his debts and his willingness to be adjudged a bankrupt on that ground. A petition may be filed against a person who is insolvent and who has committed an act of bankruptcy within four months after the commission of such act, but such time shall not expire until four months after the date of the recording or registering of the transfer or assignment when the act consists in having made a transfer of any of his property with intent to hinder, delay or defraud his creditors, or for the purpose of giving a preference or a general assignment for the benefit of his creditors if by law such recording or registering is required or permitted, or if it is not, from the date when the beneficiary takes notorious, exclusive or continuous possession of the property, unless the petitioning creditors have received actual notice of such transfer or assignment. It is made a complete defense to proceedings in bankruptcy to allege and prove that the party proceeded against was not insolvent at the time of the filing of the petition against him.

Any person who owes debts except a corporation is entitled to the benefits of the measure as a voluntary bankrupt, and any natural person except a wage-earner or a person engaged chiefly in farming or the tillage of the soil, any unincorporated company and any corporation engaged principally in manufacturing, trading, printing, publishing or mercantile pursuits, owing debts to the amount of $1,000 or over, may be adjudged an involuntary bankrupt upon default or an impartial trial. A partnership may be adjudged a bankrupt during the continuance of the partnership business or after its dissolution and before the final settlement thereof. The creditors of the partnership are to appoint a trustee, but in other respects so far as possible the estate

is to be administered as are others. The trustee is to keep separate accounts of the partnership property and of the property belonging to the individual partners, and the expenses are to be paid from the different kinds of property respectively in such proportions as shall be determined by the court. The act will not affect the allowance to bankrupts of the exemptions which are prescribed by the state laws in force at the time of the filing of the petition in the state where they have had their domicile for the six months or the greater portion thereof immediately preceding the filing of the petition.

It is made the duty of a bankrupt, among other things, to examine the correctness of all proofs of claims filed against his estate, to execute and deliver such papers as may be required by the court, and execute to his trustee transfers of all his property in foreign countries, immediately inform the trustees of any attempt by his creditors or other persons to evade the provisions of the act, disclose the fact that any person has proved a false claim against the estate and prepare to make oath to and file within ten days after adjudication if an involuntary bankrupt, or with the petition if a voluntary bankrupt, a schedule of his property, showing the amount, kind and location thereof, its money value in detail, and a list of his creditors, the amounts due each of them, the consideration therefor, the security held by them, if any, and a claim for such exemptions as he may be entitled to. Finally, the bankrupt is required, at such times as the court shall order, to submit to an examination concerning the conduct of his business, the cause of his bankruptcy, his dealings with his creditors and other persons, the amount, kind and whereabouts of his property, and, in addition, all matters which may affect the administration of his estate.

Terms of composition may be offered by a bankrupt to his creditors after, but not before, he has been examined in open court or at a meeting of his creditors, and filed in open court the schedule of his property and list of his creditors

required to be filed by bankrupts. Compositions may be confirmed where the court is satisfied that they are for the best interests of the creditors; that the bankrupt has not been guilty of any of the acts or failed to perform any of the duties which would be a bar to his discharge, and that the offer and its acceptance are made in good faith, and have not been made or procured except as provided in the act, or by any means, promises or acts therein forbidden. Compositions may be set aside on the ground of fraud.

Applications for discharge may be filed after the expiration of one month and within the next twelve months subsequent to adjudication of bankruptcy, or in case the bankrupt is unavoidably prevented from filing it within that time, then within the next six months. Applications for discharges are to be heard by the court, which will receive such proofs and pleas as may be made in opposition thereto by parties in interest at such time as will give them a reasonable opportunity to be fully heard. Applicants are to be discharged unless they have committed offenses punishable by imprisonment, as provided in the act, or with fraudulent intent to conceal their true financial condition, and in contemplation of bankruptcy destroyed, concealed or failed to keep books of account or records from which their condition might be ascertained. The confirmation of a composition will discharge the bankrupt from his debts, other than those agreed to be paid by the terms of the composition, and those not affected by a discharge. Discharges may be revoked on the ground of fraud. The liability of persons who are co-debtors with, or guarantors, or in any manner sureties for bankrupts, is not to be altered by the discharge of the latter.

Regarding the operation of the discharge itself, it is provided that it will release a bankrupt from all of his provable debts except such as (1) are due as a tax levied by the United States, the state, county, district or municipality in which he resides; (2) judgments in actions for frauds or obtaining property by false pretenses or false representa-

tions, or for willful and malicious injuries to the person or property of another; (3) have not been duly scheduled in time for proof and allowance, with the name of the creditor if known to the bankrupt, unless such creditor had notice or actual knowledge of the proceedings in bankruptcy; or (4) were created by his fraud, embezzlement, misappropriation or defalcation while acting as an officer or in any fiduciary capacity.

EPITOME OF WAR REVENUE BILL,

EFFECTIVE JULY 1, 1898.

LEADING FEATURES.

(1) Stamps to the values indicated must be affixed on or after July 1, 1898, either by the makers, signers or issuers of the instruments enumerated, or by those for whose use they are made, signed or issued.

(2) Instrument without stamp not competent evidence in any court; penalty for failure to comply, a fine of not more than $100 at discretion of court.

(3) A penalty not exceeding $1,000, or imprisonment at hard labor not exceeding 5 years, or both at the discretion of court for counterfeiting, erasing or removing stamps, washing stamps for re-use, or having same in possession.

(4) Stamp must be canceled by writing or stamping initials of parties affixing a date of such use. For failure to cancel a penalty of not less than $50, or more than $100.

(5) Section 10 provides that evasion of the stamp duties by either party to the transaction makes them liable to a fine of not exceeding $200, at the discretion of court.

(6) Acceptors of foreign exchange payable in this country, must affix stamp same as required on domestic bills, etc., before accepting or paying, under similar penalties.

(7) Section 13, while providing how errors in stamping may be corrected, provides that any person who registers, issues, sells, or transfers any instrument not stamped as required, is subject to fine and imprisonment.

(8) Section 15 provides that documents not stamped as required by law, or whose stamps have not been affixed or canceled, shall not be recorded or admitted as evidence.

(9) Section 16, provides that a document shall not be invalid for want of any particular kind of stamps, if stamps of equal value have been affixed.

(10) The following documents are exempt from stamp duties: "Bonds, debentures or certificates of indebtedness issued by officers of the U. S. government, or by officers of any state, county, town, municipal corporation, or other corporation exercising taxing powers, also stocks and bonds of co-operative building societies whose capital does not exceed $10,000, or Building and Loan Associations making loans only to shareholders."

AGREEMENT TO SELL for future delivery at any exchange or board of trade or other similar place, on each $100 or fraction of face value..... $ 0.01

BANK CHECK not drawing interest..... .02

BILL OF EXCHANGE, inland, other than at sight drawing interest for each $100 or less..... .02

BILL OF EXCHANGE, foreign, drawn in the U. S., payable outside, if drawn singly, for each $100 or less..... .04

BILL OF EXCHANGE, foreign, drawn in sets, each bill of each set for each $100 or less..... .02

BILLS OF LADING, foreign, for export other than Charter party..... .10

BILLS OF LADING, domestic, and each duplicate..... .01

BONDS, issued by any company or corporation, on each $100 or fraction, face value..... .05

BOND except as otherwise specified..... .50

BROKER'S NOTE or memorandum of sale of any goods or merchandise, stocks, bonds and exchange, notes of hand, real estate or property of any description issued by brokers or parties acting as such, for each note or memorandum not otherwise provided for..... .10

CERTIFICATE OF INDEBTEDNESS by any company or corporation, on each $100 or fraction face value..... .05

CERTIFICATE OF STOCK, original issue by any company or corporation, on each $100 or fraction of face value..... .05

CERTIFICATE OF DEPOSIT not drawing interest..... .02

CERTIFICATE OF DEPOSIT other than at sight drawing interest, for each $100 or less..... .02

CERTIFICATE OF PROFITS, or any certificate or memorandum showing interest in property or accumulations of any sort, on each $100 or fraction .02

CERTIFICATE OF DAMAGE or otherwise, and all certificates issued by port warden, surveyor or other persons acting as such..... .25

CERTIFICATE OF ANY KIND required by law, not otherwise specified..... .10

CHARTER PARTY, or memorandum or other writing between captain, master, owner or agent of ship or steamer, and any other person for or relating to charter of a ship, vessel or steamer, or renewal thereof. On registered tonnage not exceeding 300 tons..... 3.00

Exceeding 300 tons, not over 600 tons..... 5.00

Exceeding 600 tons..... 10.00

CONVEYANCE—Deed, instrument, or writing whereby any lands, tenements or other realty sold shall be granted, assigned, transferred or otherwise conveyed to or vested in the purchaser or purchasers or any other person or persons by his or her direction, $100 to $500..... .50

Each additional $500 or fraction..... .50

CUSTOM HOUSE—Entry for consumption or warehousing not exceeding $100 .25

$100 to $500..... .50

Exceeding $500..... 1.00

CUSTOM HOUSE—Entry for withdrawal..... .50

DEED—See Conveyance.

DEBENTURES issued by any company or corporation, on each $100 or fraction of face value..... .05

DISPATCH, telegraph ..... .01
DRAFT not drawing interest ..... .02
DRAFT other than at sight drawing interest for each $100 or less ..... .02
EXPRESS RECEIPTS, domestic, and each duplicate ..... .01
INSURANCE—Life policy for each $100 or fraction insured ..... .08
INSURANCE—Life, weekly plan, 40 per cent of first premium.
INSURANCE—Marine, Inland and Fire, premium on each $100 or fraction .04
INSURANCE (Casualty, Fidelity & Guarantee) premium on each $100 or fraction ..... .04
LEASE—One year or less ..... .25
Over one year, not exceeding three years ..... .50
Exceeding three years 1.00
LETTER OF CREDIT, foreign, see Bill of Exchange
MANIFEST—For custom house entry or clearance to foreign port, ship registered tonnage not exceeding 300 tons 1.00
Over 300 tons to 600 tons 3.00
Exceeding 600 tons 5.00
MORTGAGE—For over $1,000, not exceeding $1,500 ..... .25
Each additional $500 or fraction ..... .25
MORTGAGE—Transfers, same as on original mortgage.
MONEY ORDERS issued by Government for each $100 or less ..... .02
ORDER for money not drawing interest ..... .02
PASSAGE TICKET—Marine, to foreign port, cost not exceeding $30 ..... 1.00
$30 to $60 ..... 3.00
Over $60 ..... 5.00
POWER OF ATTORNEY, or proxy to vote stock at election of officers of societies or corporations, except religious, charitable, literary or public cemetery ..... .10
POWER OF ATTORNEY, general ..... .25
PROTEST of note, bill of exchange, acceptance check or draft, or any marine protest ..... .25
PROMISSORY NOTE, except bank notes issued for circulation, for each $100 or less ..... .02
SALE OF PRODUCTS or merchandise at any exchange or board of trade, or similar place by any company, corporation or person, or each agreement of sale, or agreement to sell, on each $100 or fraction of face value .... .01
NOTE. Every bill of sale or agreement to sell, shall show date, name of seller, amount of sale and matter or thing to which it refers, failure to comply with these requirements involves penalty not less than $500, nor more than $1,000, at discretion of the court.
TRANSFER OF STOCK by whomsoever made for any purpose, on each $100 or fraction of face value ..... .05
TELEGRAM—See Dispatch.
TELEGRAPH ORDER for payment of money, see Bill of Exchange.
TELEPHONE MESSAGE upon which a charge of 15 cents or more is made .. .01
WAREHOUSE RECEIPT, for any goods, merchandise or property of any kind held on storage in any public or private warehouse or yard ..... .25

EXCEPT receipts for agricultural products, deposited by actual growers thereof in regular course of trade for sale.

PROVIDED—That stamp duties on Manifests, Bills of Lading and Passage Ticket shall not apply to steamboats or other vessels, plying between ports in the United States, and ports in British North America.

THE CANADIAN TARIFF LAW.—

Wines, spirits or alcoholic liquors subject to duty according to their relative strength of proof; such strength shall be ascertained by means of Syke's hydrometer, or of the specific gravity bottle, as the controller of customs directs; and in case such relative strength cannot be directly ascertained by the direct use of the hydrometer or gravity bottle, it shall be ascertained by the distillation of a sample and the subsequent test in like manner of the distillate.

All medicinal preparations, whether chemical or other, usually imported with the name of the manufacturer, shall have the true name of such manufacturer and the place where they are prepared, and the word "alcoholic" or "non-alcoholic" permanently and legibly affixed to each parcel by stamp, label or otherwise; and all medicinal preparations imported without such names and word so affixed may be forfeited.

Ale, beer and porter, when imported in casks or otherwise than in bottle, 16 cents per gallon.

Ale, beer and porter, when imported in bottles (six quart or twelve pint bottles to be held to contain one gallon), 24 cents per gallon.

Cider, not clarified or refined, 5 cents per gallon.

Cider, clarified or refined, 10 cents per gallon.

Lime juice and fruit juices, fortified with or containing not more than 25 per cent of proof spirits, 60 cents per gallon.

When containing more than 25 per cent of proof spirits, $2 per gallon.

Lime juice and other fruit juices and fruit syrups n. o. p., 20 per cent ad valorem.

Spirituous or alcoholic liquors, distilled from any material or containing or compounded from or with distilled spirits of any kind, and any mixture thereof with water, for every gallon thereof of the strength of proof; and when of greater strength than that of proof, at the same rate on the increased quantity that there would be if the liquors were reduced to the strength of proof. When the liquors are of a less strength than that of proof the duty shall be at the rate herein provided, but computed on a reduced quantity of the liquors in proportion to the lesser degree of strength; provided, however, that no reduction in quantity shall be computed or made on any liquors below the strength of 15 per cent under proof, but all such liquors shall be computed as of the strength of 15 per cent under proof, as follows:

(a) Ethyl alcohol, or the substance commonly known as alcohol, hydrated oxide of ethyl, or spirits of wine; gin of all kinds, n. e. s.; rum, whisky and all spirituous or alcoholic liquors, n. o. p.; amyl alcohol or fusel oil, or any substance known as potato spirit or potato oil; methyl alcohol, wood alcohol, wood naphtha, pyroxylic spirit or any substance known as wood spirit or methylated spirits, absinthe, arrack, or palm spirit, brandy, including artificial brandy and imitations of brandy; cordials and liqueurs of all kinds, n. e. s.; mescal, pulque, rum shrub, schiedam and other schnapps; tafia, angostura and similar alcoholic bitters or beverages, $2.40 per gallon.

(b) Spirits and strong waters of any kind, mixed with any ingredient or ingredients, as being known or designated as anodynes, elixirs, essences, extracts, lotions, tinctures or medicines, or medicinal wines (so-called), or ethereal and spirituous fruit essences, n. e. s., $2.40 per gallon, and 30 per cent ad valorem.

(c) Alcoholic perfumes and perfumed spirits, bay rum, cologne and lavender waters, hair, tooth and skin washes and other toilet preparations of any kind, when in bottles or flasks containing not more than four ounces each, 50 per cent ad valorem.

(d) Nitrous ether, sweet spirits of nitre and aromatic spirits of ammonia $2.40 per gallon, and 30 per cent ad valorem.

(e) Vermouth containing not more than 36 per cent, and ginger wine containing not more than 26 per cent of proof spirits, 90 cents per gallon.

If containing more than these percentages respectively of proof spirits, $2.40 per gallon.

(f) Medicinal and medicated wines containing not more than 40 per cent of proof spirits, $1.50 per gallon.

Wines of all kinds, except sparkling wines, including orange, lemon, strawberry, raspberry, elder and currant wines, containing 26 per cent or less of spirits of the strength of proof, whether imported in wood or in bottles (six quart or twelve pint bottles to be held to contain a gallon), 25 cents per gallon.

And for each degree of strength in excess of the 26 per cent of spirits as aforesaid, an additional duty of 3 cents until the strength reaches 40 per cent of proof spirits; and in addition thereto 30 per cent ad valorem.

Champagnes and all other sparkling wines in bottles, containing each not more than a quart, but more than a pint, $3.30 per dozen bottles.

Containing not more than a pint each, but more than one half pint, $1.65 per dozen bottles.

Containing one-half pint each or less, 82 cents per dozen bottles.

Bottles containing more than one quart each shall pay in addition to the $3.30 per dozen bottles, at the rate of $1.65 per gallon on the quantity in excess of one quart per bottle, the quarts and pints in each case being old wine measure.

In addition to the above specific duty, there shall be an ad valorem duty of 30 per cent.

But any liquor imported under the name of wine and containing more than 40 per cent of spirits of the strength of proof shall be rated for duty as unenumerated spirits.

The reductions provided for in the reciprocity schedule of the law do not include wines, malt liquors, spirits, spirituous liquors or articles containing alcohol.

The only articles on the free list are those for the use of the governor-general.

PART V.

STATISTICAL TABLES.

PRODUCTION OF WHISKY For Year Ending	Kentucky.	Pennsylvania.	Maryland.	West Virginia.	Tennessee.	United States.
June 30, 1880.....	15,011,279	3,187,167	1,651,118	330,773	845,341	90,355,270
" " 1881.....	31,869,047	4,686,181	2,395,843	511,659	1,321,646	117,728,150
" " 1882.....	30,386,456	4,977,887	1,725,397	379,435	1,047,054	105,853,161
" " 1883.....	9,900,676	2,333,342	1,176,166	182,031	893,131	74,013,308
" " 1884.....	10,409,551	2,687,237	1,612,363	283,022	1,226,272	75,435,739
" " 1885.....	13,458,995	2,524,732	1,715,969	210,111	791,381	74,915,363
" " 1886.....	20,572,132	3,334,353	2,107,045	396,216	661,518	80,344,380
" " 1887.....	19,383,109	3,683,149	1,690,083	229,278	731,022	77,831,599
" " 1888.....	8,670,912	3,258,519	1,426,003	123,346	845,014	70,279,406
" " 1889.....	25,130,501	4,163,569	1,976,880	268,332	1,150,828	89,358,510
" " 1890.....	36,189,378	6,374,354	2,467,231	359,997	1,567,739	109,275,928
" " 1891.....	33,393,045	8,059,527	2,488,950	520,084	982,110	115,962,389
" " 1892.....	33,541,820	7,328,445	2,683,684	355,176	833,153	114,769,041
" " 1893.....	45,361,281	9,514,155	3,082,734	466,728	955,199	128,651,782
" " 1894.....	20,132,870	5,461,934	2,610,262	193,250	571,502	89,205,492
" " 1895.....	22,814,952	6,556,906	3,083,083	193,236	566,319	79,949,595
" " 1896.....	19,823,258	4,767,399	2,586,305	138,663	622,683	86,588,703
" " 1897.....	6,744,677	1,223,441	1,479,722	57,916	696,233	62,465,648
" " 1898.....	15,367,793	4,838,830	2,264,818	133,986	547,258	80,649,650

STOCK OF WHISKY REMAINING IN BOND For Year Ending	Kentucky.	Pennsylvania.	Maryland	West Virginia.	Tennessee.	United States.
June 30, 1881.....	7,636,128	1,930,852	649,991	85,867	891,174	84,443,908
" " 1882.....	9,672,463	2,236,300	886,117	112,613	759,968	80,538,627
" " 1883.....	16,409,837	3,071,860	1,731,184	290,758	984,712	83,475,960
" " 1884.....	24,610,913	4,064,825	2,358,915	442,061	1,175,910	92,433,181
" " 1885.....	21,861,909	2,559,786	1,689,468	323,792	978,537	83,692,998
" " 1886.....	18,229,832	3,031,483	1,063,035	214,059	966,362	76,972,676
" " 1887.....	13,114,465	2,515,038	1,445,195	228,279	891,148	70,782,951
" " 1888.....	15,043,201	2,782,430	1,588,848	223,508	896,274	74,391,751
" " 1889.....	20,089,708	3,205,967	2,420,529	363,875	807,667	81,879,458
" " 1890.....	18,397,199	3,829,928	1,478,283	287,101	855,220	88,066,945
" " 1891.....	17,737,639	3,810,575	1,369,437	174,650	1,057,756	92,761,985
" " 1892.....	24,931,444	4,424,856	1,665,838	223,756	1,009,277	100,094,159
" " 1893.....	34,315,637	5,955,141	2,010,360	316,104	1,108,793	108,353,427
" " 1894.....	31,965,216	6,743,066	2,610,019	453,629	745,503	99,107,108
" " 1895.....	21,632,319	4,062,177	2,149,180	193,522	649,711	81,540,121
" " 1896.....	15,222,845	3,199,407	1,859,140	125,760	504,560	73,664,134
" " 1897.....	14,121,554	3,669,896	2,064,593	154,427	553,546	74,662,499
" " 1898.....	16,241,818	4,636,922	2,635,830	192,658	759,771	86,277,530

WITHDRAWALS OF WHISKY FROM BOND For Year Ending	Kentucky.	Pennsylvania.	Maryland.	West Virginia.	Tennessee.	United States.
June 30, 1881	41,913,217	6,978,532	3,458,648	760,531	1,258,619	64,648,111
" " 1882	62,627,210	9,720,119	4,297,928	1,027,353	1,545,705	89,962,645
" " 1883	56,118,049	8,981,601	3,742,910	918,626	1,454,124	80,499,693
" " 1884	41,916,687	7,604,013	2,996,358	779,587	1,504,486	63,502,951
" " 1885	33,513,773	6,568,969	3,022,859	645,906	1,317,330	54,724,516
" " 1886	35,856,073	6,881,839	4,066,869	828,063	1,012,486	58,096,620
" " 1887	42,124,717	8,049,950	4,311,757	829,062	852,360	65,145,269
" " 1888	35,752,428	8,526,039	4,148,912	728,900	801,100	61,033,018
" " 1889	40,793,221	9,483,641	3,705,263	633,357	1,144,261	68,512,070
" " 1890	58,585,400	12,028,067	4,694,211	706,253	1,856,780	89,721,053
" " 1891	74,240,806	16,277,019	5,813,724	1,051,687	1,781,134	112,921,457
" " 1892	82,851,182	19,180,608	6,831,570	1,183,107	1,605,010	127,596,339
" " 1893	93,896,826	22,739,622	7,903,944	1,333,731	1,451,416	147,894,694
" " 1894	82,064,480	21,458,490	7,904,187	1,073.352	1,277,415	137,993,078
" " 1895	83,247,113	23,953,219	8,838,090	1,073,066	1,194,023	136,402,552
" " 1896	87,847,526	25,521,211	9,565,255	1,085,969	1,312,146	149,327,121
" " 1897	80,470,649	23,074,756	8,980,384	989.458	1,454,833	137,130,270
" " 1898	79,596,624	23,276,664	8,609,372	930,786	1,242,320	131,502,390

DISTILLED SPIRITS PRODUCED AND DEPOSITED (a) IN DISTILLERY WAREHOUSES DURING THE PAST TWENTY-ONE YEARS.

Fiscal year ended June 30—	SPIRITS WAREHOUSED.									
	Fruit Brandy.	Bourbon whisky.	Rye whisky.	Alcohol.	Rum.	Gin.	High wines.	Pure neutr'l or cologne spirits.	Miscellaneous.	Total.
	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.
1878.....	178,544	6,405,520	2,834,119	10,277,725	1,603,376	364,963	19,412,985	11,108,023	4,096,342	56,281,597
1879.....	69,340	8,587,081	4,001,048	19,594,283	2,243,455	372,776	18,033,652	13,459,486	5,600,840	71,961,961
1880.....	129,086	15,414,148	6,341,991	21,631,009	2,439,301	394,668	15,210,389	20,657,975	8,265,789	90,484,356
1881.....	240,124	33,632,615	9,931,609	22,988,969	2,118,506	549,596	14,363,581	23,553,608	10,586,666	117,968,274
1882.....	381,825	29,575,667	9,224,777	15,201,671	1,704,084	569,134	10,962,379	27,871,293	10,744,156	106,234,984
1883.....	223,977	8,662,245	4,784,654	10,718,706	1,801,960	545,768	8,701,951	28,295,253	10,502,771	74,237,285
1884.....	200,732	8,896,832	5,089,958	12,385,229	1,711,158	641,724	6,745,688	28,538,680	11,426,470	75,636,471
1885.....	312,197	12,277,750	5,328,043	13,436,916	2,081,165	639,461	3,235,889	27,104,382	10,811,757	75,227,560
1886.....	329,679	19,318,819	7,842,540	11,247,877	1,799,952	656,607	2,396,248	26,538,581	10,543,756	80,674,059
1887.....	673,610	17,015,034	7,313,640	10,337,035	1,857,223	747,025	2,410,923	27,066,219	11,084,500	78,505,209
1888.....	864,704	7,463,609	5,879,690	11,075,639	1,891,246	872,990	1,016,436	29,475,913	12,603,883	71,144,110
1889.....	952,358	21,960,784	8,749,768	10,939,135	1,471,054	1,029,968	1,029,495	30,439,354	13,738,952	90,310,868
1890.....	1,137,649	32,474,784	13,355,577	11,354,448	1,657,808	1,202,940	555,572	34,022,619	14,652,180	110,413,577
1891.....	1,223,725	29,931,415	14,345,389	12,260,821	1,784,312	1,293,874	1,007,070	35,356,126	19,983,382	117,186,114
1892.....	2,044,893	29,017,797	13,436,827	14,490,987	1,956,318	1,338,617	633,590	37,690,335	16,204,570	116,813,934
1893.....	1,250,276	40,835,873	16,702,240	12,250,380	2,106,765	1,424,490	449,209	37,577,052	17,305,773	129,902,058
1894.....	1,330,289	15,518,349	10,026,544	10,570,070	1,864,595	1,287,977	126,506	35,377,115	14,434,336	90,535,781
1895.....	915,667.3	18,717,152.7	12,321,542.8	8,819,923.6	1,777,083.5	1,176,669	209,699.3	21,062,215.6	15,865,308.8	80,865,272.6
1896.....	1,301,188.3	16,935,862.4	9,153,066.6	9,960,301.1	1,490,227.6	1,098,375.7	198,298.6	25,564,738.3	22,187,832.7	87,889,891.3
1897.....	620,780.8	6,113,726.2	4,269,220.2	9,503,353.2	1,294,156.9	1,159,314	206,738.4	16,877,305.6	23,041,833.3	63,086,428.6
1898.....	918,246.7	12,439,458.9	8,818,240	11,672,794.8	1,340,546.5	1,267,579.5	174,124.4	20,613,205.3	23,436,264	81,680,460.1

(a) This does not show spirits redeposited, but shows spirits produced except fruit brandy not deposited in special bonded warehouses.

STOCK ON HAND, PRODUCTION, AND MOVEMENT OF SPIRITS FOR FIVE YEARS.

The following table shows the stock on hand, production, and movement of spirits, other than fruit brandies, for the fiscal years 1894, 1895, 1896, 1897, and 1898:

Distilled Spirits.	1894	1895	1896	1897	1898
	Gallons.	*Gallons.*	*Gallons.*	*Gallons.*	*Gallons.*
Actually in warehouse at beginning of fiscal year and in transit between warehouses	147,894,694	137,993,078	138,248,796.2	152,125,495.4	139,721,504.3
Produced during fiscal year	89,205,492	81,090,993.9	86,589,358.5	62,466,129.5	80,762,229
Total	237,100,186	219,084,071.9	224,838,154.7	214,591,624.9	220,483,733.3
Withdrawn, taxpaid, during fiscal year	87,087,618	74,540,569	66,877,986.8	68 661,038.5	78,246,032.9
Withdrawn for exportation during fiscal year	6,114,417	1,312,006.5	1,190,258.4	2,091,788.1	3,372,864.7
Withdrawn for scientific purposes for use of United States, for transfer to manufacturing warehouse, destroyed by casualty, allowed for loss by leakage in warehouses, etc	5,905,073	4,982,700.2	4,644,414.1	4,117,294	5,800,914.6
Total	99,107,108	80,835,275.7	72,712,659.3	74,870,120.6	67,419,812.2
Remaining in warehouse at end of fiscal year, including spirits in transit between warehouses	137,993,078	138,248,796.2	152,125,495.4	139,721,504.3	133,063,921.1

SPIRITS IN THE HANDS OF WHOLESALE DEALERS AND RECTIFIERS.

The quantity of domestic and foreign spirits, respectively, and the aggregate held October 1, each year from 1878 to 1898, both inclusive, are:

YEAR.	DOMESTIC.	FOREIGN.	TOTAL.
	Proof Gallons.	*Proof Gallons.*	*Proof Gallons.*
1878	14,480,393	11,401	14,491,794
1879	13,014,112	593,506	13,607,618
1880	11,666,991	626,692	12,293,683
1881	11,065,611	572,797	11,638,408
1882	11,505,434	583,992	12,089,426
1883	13,345,779	575,703	13,921,482
1884	15,139,715	524,491	15,664,206
1885	14,760,683	496,109	15,256,792
1886	15,523,226	534,094	16,057,320
1887	14,003,833	511,126	14,514,959
1888	14,341,056	487,315	14,828,371
1889	14,815,703	440,179	15,255,882
1890	15,879,918	503,277	16,383,195
1891	13,915,377	490,898	14,406,275
1892	15,190,886	366,756	15,557,642
1893	18,634,971	359,630	18,994,601
1894	30,321,083	275,062	30,596,145
1895	17,498,572	282,562	17,781,134
1896	14,800,417	263,308	15,063,725
1897	12,416,794	460,836	12,877,630
1898	12,282,987	320,730	12,603,717

BALANCE OF SPIRITS IN DISTILLERY WAREHOUSES AT CLOSE OF EACH FISCAL YEAR FROM 1869 TO 1898.

Date.	Quantity.	Date.	Quantity.
Remaining June 30—		Remaining June 30—	
1869	16,685,166	1884	63,502,551
1870	11,671,886	1885	54,724,916
1871	6,745,360	1886	58,096,620
1872	10,103,392	1887	65,145,269
1873	14,650,148	1888	61,033,018
1874	15,575,224	1889	68,512,070
1875	13,179,596	1890	89,721,053
1876	12,595,850	1891	112,921,457
1877	13,091,773	1892	127,596,339
1878	14,088,773	1893	147,894,694
1879	19,212,470	1894	137,993,078
1880	31,363,869	1895	138,248,796.2
1881	64,648,111	1896	152,125,495.4
1882	89,962,645	1897	139,713,753.9
1883	80,499,993	1898	133,063,921.1

LEAKAGE OR EVAPORATION IN DISTILLERY WAREHOUSES FOR FISCAL YEARS FROM 1880 TO 1898.

Year.	Total quantity withdrawn.	Leakage allowed.	Percentage of withd'r'l's
	Gallons.	*Gallons.*	
1880	78,199,283	75,834	.096
1881	84,335,900	811,466	.962
1882	80,281,611	1,231,336	1.533
1883	83,291,190	2,291,013	2.750
1884	92,022,593	3,858,494	4.193
1885	*a* 90,925,782	4,424,314	4.866
1886	*b* 78,566,767	1,806,868	2.299
1887	70,782,951	1,833,681	2.591
1888	74,391,751	2,209,327	2.969
1889	81,879,458	3,145,111	3.841
1890	88,066,945	2,932,249	3.329
1891	92,761,985	2,420,256	2.609
1892	100,094,159	3,532,810	3.529
1893	108,353,427	5,072,164	4.681
1894	99,107,108	5,626,803	5.677
1895	*c* 82,681,445.2	3,533,171 1	4.273
1896	*d* 73,664,134	2,614,783.6	3.549
1897	*e* 74,662,498.8	3,501,579.2	4.689
1898	*f* 86,837,485.5	4,348,006.3	5.007

a Includes 7,750,696 gallons stamped for export not actually withdrawn.
b Includes 2,494,091 gallons stamped for export not actually withdrawn.
c Includes 2,216,452.2 gallons transferred to general bonded warehouses and on which leakage will be allowed on final withdrawal.
d Includes 7,408,518 gallons transferred to general bonded warehouses and on which leakage will be allowed on final withdrawal.
e Includes 4,358,010 gallons transferred to general bonded warehouses and on which leakage will be allowed on final withdrawal.
f Includes 765,697.5 gallons transferred to general bonded warehouses and on which leakage will be allowed on final withdrawal.

Statement showing the total Internal Revenue Receipts from Spirits Distilled from whatever Materials at the several different rates of tax, together with the quantities of the same on which the tax was paid, and the average rate of tax per gallon on the Aggregate Quantities taxed each year, by fiscal years, from September 1, 1862, to June 30, 1898.

Fiscal years ended June 30—	Rates of tax at which collections were made.	Aggregate collections at each rate.	Aggregate quantities at each rate.	Aggregate collections for each fiscal year.	Aggregate quantities for each fiscal year.	Average rate of tax per gallon.
1863.....	$ 0.20	$ 3,229,990.79	16,149,954	$ 3,229,990.79	16,149,954	$0.20
1864.....	.20	11,372,719.13	56,863,595	28,431,797.83	85,295,393	.33
	.60	17,059,078.70	28,431,798			
1865.....	.20	965,705.16	4,828,525	16,007,706.99	16,973,974	.9431
	.25	7,565.41	30,262			
	.50	2,980.78	.5,961			
	.60	2,897,115.50	4,828,525			
	1.50	7,281,187.14	4,854,125			
	2.00	4,853,153.00	2,426,576			
1866.....	.50	44,740.70	89,481	29,482,077.99	14,847,943	1.9856
	1.50	238,759.14	159,173			
	2.00	29,198,578.15	14,599,289			
1867.....	1.00	13,069.56	13,070	29,164,409.34	14,588,740	1.9991
	2.00	29,151,339.78	14,575,670			
1868.....	1.00	158,885.62	158,886	14,290,730.98	7,224,809	1.9781
	2.00	14,131,845.36	7,065,923			
1869.....	.50	18,787,891.70	37,575,783	33,735,323.68	62,092,417	.5433
	.60	14,630,370.60	24,383,951			
	2.00	265,366.11	132,683			
	.....	†51,695 27	.....			
1870.....	.50	39,245,099.04	78,490,198	39,245,099.04	78,490,198	.50
1871.....	.50	31,157,314.15	62,314,628	31,157,314.15	62,314,628	.50
1872.....	.50	33,117,783.99	66,235,578	33,117,788.99	66,235,578	.50
1873.....	.50	7,516,835.35	15,033,671	43,131,064.78	65,911,141	.6544
	.70	35,614,229.43	50,877,470			
1874.....	.70	43,807,093.70	62,581,562	43,807,093.70	62,581,562	.70
1875.....	.70	38,868,838.76	55,526,912	46,877,938.10	64,425,911	.7276
	.90	8,009,099.34	8,898,999			
1876.....	.70	2,873,264.46	4,104,664	51,390,490.43	58,012,693	.8858
	.90	48,517,225.97	53,908,029			
1877.....	.70	62,159.09	88,798	52,671,291.34	58,543,389	.8997
	.90	52,609,132.25	58,454,591			
1878.....	.70	25,328.53	36,184	45,626,533.66	50,704,189	.8999
	.90	45,601,204.53	50,668,005			
1879.....	.50	15,502.27	31,005	47,709,464.24	53,025,175	.8998
	.70	2,767.03	3,953			
	.90	47,691,194.94	52,990,217			
1880.....	.70	190.84	272	55,919,119.18	62,132,415	.90
	.90	55,918,928.34	62,132,143			
1881.....	.70	1,251.58	1,788	62,214,127.56	69,127,206	.90
	.90	62,212,875.98	69,125,418			
1882.....	.70	2.17	3	64,778,756.97	71,976,398	.90
	.90	64,778,754.80	71,976,395			
1883.....	.90	69,085,856.73	76,762,063	69,085,856.73	76,762,063	.90
1884.....	.90	71,655,211.33	79,616,901	71,655,211.33	79,616,901	.90
1885.....	.70	.70	1	62,242,221.97	69,158,025	.90
	.90	62,242,221.27	69,158,024			
1886.....	.90	63,766,219.61	70,851,355	63,766,219.61	70,851,355	.90
1887.....	.90	60,642,351.66	67,380,391	60,642,351.66	67,380,391	.90
1888.....	.90	64,408,937.37	71,565,486	64,408,937.37	71,565,486	.90
1889.....	.90	69,447,175.84	77,163,529	69,447,175.84	77,163,529	.90
1890.....	.90	76,539,002.62	85,043,336	76,539,002.62	85,043,336	.90
1891.....	.90	79,626,093.51	88,473,437	79,626,093.51	88,473,437	.90
1892.....	.90	85,541,209.01	95,045,787	85,541,209.01	95,045,787	.90
1893.....	.90	89,231,300.05	99,145,889	89,231,300.05	99,145,889	.90
1894.....	.90	79,899,647.52	88,777,387	79,899,647.52	88,777,387	.90
1895.....	.90	37,232,644.32	41,369,604	74,837,396.01	75,555,742	.995
	1.10	37,604,751.69	34,186,138			
1896.....	.90	4,027.61	4,475	75,327,897.62	68,480,720	1.10
	1.10	75,323,870.01	68,476,245			
1897.....	.90	45,185.80	50,206	76,967,256.91	69,979,362	1.0999
	1.10	76,922,071.11	69,929,156			
1898.....	1.10	87,741,223.85	79,764,749	87,741,223.85	79,764,749	1.10
Total.....	.....	1,958,947,120.75	2,303,417,872	1,958,947,120.75	2,303,417,872	.855

RATES OF TAX ON SPIRITS UNDER THE DIFFERENT LAWS WHICH HAVE BEEN IN FORCE

Spirits.	Tax per gallon.	Acts Imposing tax.	Acts Repealing tax	Length of time rates were in force.
				Months
Spirits distilled from whatever materials	$0.20	July 1, 1862	Mar. 7, 1864	18
Do	.60	Mar. 7, 1864	June 30, 1864	4
Spirits distilled from whatever materials except grapes	1.50	June 30, 1864	Dec. 22, 1864	6
Spirits distilled from whatever materials, except grapes, to April 1, 1865, and from whatever materials, except apples, grapes, and peaches, after April 1, 1865	2.00	Dec. 22, 1864	July 20, 1868	43
Spirits distilled from grapes	.25	June 30, 1864	Mar. 3, 1865	9
Do	.50	Mar. 3, 1865	July 13, 1866	17
Spirits distilled from apples or peaches	1.50	... do	... do	17
Spirits distilled from apples, grapes, or peaches	2.00	July 13, 1866	Mar. 2, 1867	6
Spirits distilled from apples or peaches	2.00	Mar. 2, 1867	July 20, 1868	17
Spirits distilled from grapes	1.00	...do	... do	17
Spirits distilled from whatever materials	.50	July 20, 1868	June 6, 1872	48
Do	.70	June 6, 1872	Mar. 3, 1875	31
Do	.90	Mar. 3, 1875	Aug. 28, 1894	113
Do	1.10	Aug. 28, 1894	.....	.....

COMPARATIVE STATEMENT OF MATERIALS USED AND SPIRITS PRODUCED DURING THE LAST TEN FISCAL YEARS.

YEAR.	Grain Used.	Spirits produced from grain.	Molasses used to produce spirits.	Spirits produced from molasses.	Molasses used to produce rum.	Rum Produced.
	Bushels.	*Gallons.*	*Gallons.*	*Gallons.*	*Gallons.*	*Gallons.*
1889	20,990,924	87,887,456	.....	.....	1,951,104	1,471,054
1890	25,202,901	107,618,120	.....	.....	2,198,538	1,657,808
1891	26,347,641	114,178,077	.....	.....	2,368,171	1,784,312
1892	26,489,827	112,812,723	.....	.....	2,550,759	1,956,318
1893	29,030,409	126,545,017	.....	.....	2,775,752	2,106,765
1894	19,716,818	87,340,897	.....	.....	2,598,409	1,846,595
1895	18,057,107	78,172,512	.....	.....	2,219,547	1,777,083
1896	18,630,618	82,456,153	3,507,609	2,642,322	1,891,356	1,490,228
1897	13,131,891	59,154,877	4,441,482	3,310,771	1,711,860	1,294,157
1898	17,260,246	77,443,199	2,591,382	1,978,468	1,772,113	1,340,546
Total	214,858,388	933,609,031	10,540,473	7,931,561	22,037,609	16,724,866
Average	21,485,832	93,360,903	3,513,491	2,643,853	2,203,760	1,672,486

Number of Different Kinds of Special Tax Payers.

Number of different kinds of special tax payers and totals of all for the years 1898–'97.	Rectifiers.	Retail liquor dealers.	Wholesale liquor dealers.	Mfgrs of stills.	Brewers.	Retail dealers in malt liquor	Wholesale dl'rs malt liquor.	Total.
Fiscal year ended June 30, '98	1,893	195,964	4,405	21	1,845	12,071	6,577	222,776
Fiscal year ended June 30, '97	1,694	194,944	4,308	18	1,830	11,076	5,974	219,840

OUTAGE.

Under the provisions of the outage act of March 3, 1899, the following outage is allowed on all goods in bond prior to Jan. 1, 1899:

It is to be noted that the outage allowed is for seven years only, while the bonding period remains eight years as heretofore, no outage being allowed for the eighth year.

Goods bonded since Jan. 1, 1899, are subject to the old law, viz: outage allowed only on first four years of the bonded period. No outage for the last four years.

Not to exceed 1	proof gallon	for 2 months	or part	thereof.		
Do.	1½	gallons for	more than	2 months	and not more than	4
Do.	2	do.	do.	4	do.	6
Do.	2½	do.	do.	6	do.	8
Do.	3	do.	do.	8	do.	10
Do.	3½	do.	do.	10	do.	12
Do.	4	do.	do.	12	do.	15
Do.	4½	do.	do.	15	do.	18
Do.	5	do.	do.	18	do.	21
Do.	5½	do.	do.	21	do.	24
Do.	6	do.	do.	24	do.	27
Do.	6½	do.	do.	27	do.	30
Do.	7	do.	do.	30	do.	33
Do.	7½	do.	do.	33	do.	36
Do.	8	do.	do.	36	do.	40
Do.	8½	do.	do.	40	do.	44
Do.	9	do.	do.	44	do.	48
Do.	9½	do.	do.	49	do.	52
Do.	10	do.	do.	53	do.	56
Do.	10½	do.	do.	57	do.	60
Do.	11	do.	do.	61	do.	64
Do.	11½	do.	do.	65	do.	68
Do.	12	do.	do.	69	do.	72
Do.	12½	do.	do.	73	do.	76
Do.	13	do.	do.	77	do.	80
Do.	13½	do.	do.	81	do.	84

TABLE SHOWING COST OF SPIRITS PER PROOF GALLON IN CISTERN ROOM.

COOPERAGE NOT INCLUDED.

Basis:—Mashing 1,000 bushels per day; malt at 1¾c per pound; rye at 60c per bushel; corn at prices per margin; allowing two per cent for loss on grain. Expenses of all kinds $140 per day, including repairs. Allowing for the sale of slop at seven cents per bushel and bran at fifty cents per hundred weight:

YIELD PER BUSHEL.

PRICE PER BUSHEL CORN.	4 GAL COST	4.50 GALS COST	4.60 GALS COST	4.70 GALS COST	4.80 GALS COST	PRICE PER BUSHEL CORN.	4 GAL COST	4.50 GALS COST	4.60 GALS COST	4.70 GALS COST	4.80 GALS COST
Cents.	Cts.	Cts.	Cts.	Cts.	Cts.	Cents.	Cts.	Cts.	Cts.	Cts.	Cts.
.25	10.30	9.15	8.95	8.76	8.58	.41	14.03	.49	.23	.96	.72
.25½	.41	.25	9.05	.86	.68	.41½	.15	.60	.33	12.06	.82
.26	.53	.36	.16	.96	.78	.42	.27	.70	.44	.16	.92
.26½	.64	.46	.26	9.06	.88	.42½	.40	.81	.54	.26	12.01
.27	.76	.56	.36	.16	.98	.43 ...	.53	.91	.64	.36	.11
.27½	.87	.67	.46	.26	9.07	.43½	.65	13.02	.74	.46	.21
.28	.99	.77	.57	.36	.17	.44	.77	.12	.85	.56	.31
.28½	11.10	.88	.67	.46	.27	.44½	.89	.23	.95	.66	.41
.29	.22	.98	.77	.56	.37	.45	15.00	.33	13.05	.76	.50
.29½	.34	10.09	.87	.66	.47	.45½	.12	.44	.16	.87	.60
.30	.45	.19	.98	.76	.56	.46	.24	.54	.26	.97	.70
.30½	.57	.30	10.08	.86	.66	.46½	.36	.65	.36	13.07	.80
.31	.69	.40	.18	.96	.76	.47	.44	.75	.47	.17	.90
.31½	.81	.51	.28	10.06	.86	.47½	.56	.86	.57	.28	13.00
.32	.93	.61	.39	.16	.96	.48	.68	.96	.67	.38	.10
.32½	12.05	.72	.49	.26	10.05	.48½	.80	14.07	.78	.48	.20
.33	.17	.82	.59	.36	.15	.49	.92	.17	.88	.58	.30
.33½	.29	.93	.69	.46	.25	.49½	16.04	.28	.98	.68	.40
.34	.41	11.03	.80	.56	.35	.50	.16	.39	14.09	.78	.50
.34½	.53	.14	.90	.66	.44	.50½	.28	.50	.19	.88	.60
.35	.65	.24	11.00	.76	.54	.51 ...	.40	.60	.29	.98	.70
.35½	.77	.34	.10	.86	.64	.51½	.52	.71	.40	14.09	.80
.36	.88	.44	.21	.96	.74	.52	.64	.82	.50	.19	.90
.36½ ..	.99	.55	.31	11.06	.84	.52½ ...	.77	.93	.60	.29	14.00
.37	13.10	.65	.41	.16	.93	.53	.89	15.03	.71	.39	.10
.37½	.21	.76	.51	.26	11.03	.53½	17.01	.14	.81	.49	.20
.38	.32	.86	.62	.36	.13	.54	.13	.24	.91	.59	.30
.38½	.43	.97	.72	.46	.23	.54½	.25	.35	15.02	.69	.40
.39	.54	12.07	.82	.56	.33	.55	.37	.45	.12	.79	.50
.39½	.65	.18	.92	.66	.43	.55½	.49	.56	.23	.89	.60
.40	.77	.28	12.03	.76	.52	.56	.62	.66	.33	15.00	.69
.40½	.90	.39	.13	.86	.62	.56½	17.75	15.77	15.44	15.11	14.80

The above is figured on the following furnish:

Corn	48,788 lbs.	
Malt	6,012 lbs.	
Rye	1,200 lbs.	
Total	56,000 lbs.	1,000 bu

For cooperage add 1¾c per proof gallon for spirits, 190 per cent., and 3½c per proof gallon for spirits 100 per cent.

TABLE SHOWING THE COMPARATIVE VALUE OF SPIRITS AND ALCOHOL.

This table shows at a glance the corresponding prices of spirits, 100 per ct. proof, as compared with the prices of alcohol, 188 and 190 per ct. proof in bond, and also tax paid.

Under rubic marked "A," is the price given per wine gallon of spirits, 100 per ct. proof, including tax paid $1.10 per gallon.

Rubic "B," represents the corresponding short price, in bond, of alcohol 188 per ct. proof gallon.

Rubic "C," represents the corresponding price of alcohol 188 per ct. proof tax paid $1.10 per gallon.

Rubic "D," represents the corresponding price of alcohol 190 per ct. proof, tax paid $1.10 per gallon.

Tax Paid Proof Gallon.	BOND.	TAX PAID.		Tax Paid Proof Gallon.	BOND.	TAX PAID.	
	188°	188°	190°		188°	188°	190°
A	B	C	D	A	B	C	D
120	18⅞	2.256	2.280	130	37½	2.444	2.470
120¼	19¼	2.261	2.284	130¼	38	2.449	2.475
120½	19⅝	2.265	2.289	130½	38½	2.453	2.479
120¾	20¼	2.270	2.294	130¾	39	2.458	2.484
121	20⅝	2.275	2.299	131	39½	2.462	2.489
121¼	21¼	2.279	2.304	131¼	40	2.467	2.494
121½	21½	2.284	2.308	131½	40½	2.472	2.498
121¾	22⅛	2.289	2.313	131¾	40¾	2.477	2.503
122	22½	2.294	2.318	132	41¼	2.482	2.508
122¼	23	2.298	2.323	132¼	41¾	2.486	2.513
122½	23½	2.303	2.327	132½	42⅛	2.491	2.517
122¾	24	2.308	2.332	132¾	42¾	2.496	2.522
123	24½	2.312	2 337	133	43¼	2.500	2.527
123¼	24⅞	2.317	2.342	133¼	43⅝	2.505	2.532
123½	25¼	2.322	2.346	133½	44⅛	2.510	2.537
123¾	25⅝	2.326	2.351	133¾	44¾	2.514	2.541
124	26⅛	2.331	2.356	134	45⅛	2.519	2.546
124¼	26¾	2.336	2.361	134¼	45½	2.524	2.551
124½	27⅛	2.340	2.365	134½	46	2.529	2.555
124¾	27⅝	2.345	2.370	134¾	46½	2.533	2.560
125	28¼	2.350	2.375	135	47	2.538	2:565
125¼	28⅝	2.355	2.380	135¼	47½	2.542	2.570
125½	29¼	2.359	2.385	135½	48	2.547	2.574
125¾	29⅝	2.364	2.389	135¾	48½	2.552	2.579
126	30	2.369	2.394	136	48⅞	2.557	2.584
126¼	30½	2.373	2.399	136¼	49½	2.562	2.589
126½	31	2.378	2.403	136½	49⅞	2.566	2.594
126¾	31½	2.383	2.408	136¾	50¼	2.571	2.598
127	32	2.388	2.413	137	50¾	2.576	2.603
127¼	82½	2.392	2.418	137¼	51¼	2.580	2.608
127½	33	2.397	2.422	137½	51¾	2.585	2.612
127¾	33½	2.402	2.427	137¾	52⅛	2.590	2.617
128	33¾	2.406	2.432	138	52½	2.594	2.622
128¼	34¼	2.411	2.437	138¼	53	2.600	2.627
128½	34¾	2.416	2.441	138½	53⅛	2.604	2.631
128¾	35¼	2.420	2.446	138¾	54	2.608	2.636
129	35¾	2.425	2.451	139	54½	2 613	2.641
129¼	36¼	2.430	2.456	139¼	55	2.618	2.646
129½	36¾	2.435	2.460	139½	55½	2.623	2.650
129¾	37⅛	2,439	2.465	139¾	56	2.627	2.655

METHOD FOR

ASCERTAINING THE QUANTITY OF WATER REQUIRED FOR THE REDUCTION OF PROOF.

The rule for accurately reducing the strength of liquors by a definite amount is as follows:

Divide the alcohol in the given strength by the alcohol in the required strength, multiply the quotient by the water in the required strength, and subtract the water in the given from the product. The remainder is the number of gallons of water to be added to 100 gallons of liquor of the given strength to produce a liquor of the required strength. Having found the required quantity of water to be added for 100 gallons, take a proportionate amount for a less quantity.

EXAMPLE.—It is required to reduce 45 gallons of liquor of 109 per cent. to 100 per cent. or proof; 100 per cent. proof spirits contains 50.0 parts absolute alcohol, at 60 degrees temperature and 53.71 parts water.

Alcohol in 109 per cent	54.50
Divided by alcohol in 100 per ct. 50.00:—54.50÷50.00	1.09
Multiply by water in 100 per cent	53.71
	58.54
Subtract water in 109 per cent	49.22
Total	9.32

Gallons water for 100 gallons of spirits, 9.32; or .93 for 10 gallons. Multiply the amount of water for 10 gallons by the number of gallons to be reduced—viz.: 45; result, 41.8 gallons of water to be added. To carry this rule into successful practice, however, involves the necessity of knowing the respective volumes of alcohol and water at different proofs, which the following table will show, from 100 per cent. to 110 per cent.:

Per Cent.	Alcohol.	Water.	Per Cent.	Alcohol.	Water.
100	50.00	53.71	106	53.00	50.73
101	50.50	53.21	107	53.50	50.23
102	51.00	52.72	108	54.00	49.73
103	51.50	52.22	109	54.50	49.22
104	52.00	51.72	110	55.00	48.72
105	52.50	51.22			

A SIMPLE RULE, however, which will answer all practical purposes, is to multiply present wine gallons by the present proof, which will give the present proof gallons. Then multi-

ply present wine gallons by proof to which it is to be reduced. Deduct the last proof gallons found from the first proof gallons found. The difference will be the amount of water to be added.

EXAMPLE.

109x45.....49.05
100x45.....45.00

Gallons of water to add..... 4.05

By the first-mentioned rule the water was found to be 4.18, but this is on account of the fractions being carried out. Discarding the fraction, the result will be the same as the above, viz.: 9x45=4.05.

TABLE SHOWING HOW TO CALCULATE GIVEN PROOF TO ITS RELATIVE MEASURE IN WEIGHT.

ONE POUND OF					
100	proof whisky is	.1285	wine	gal.	
95	" "	.1278	"	"	
90	" "	.1272	"	"	
85	" "	.1266	"	"	
80	" "	.1261	"	"	
75	" "	.1256	"	"	
70	" "	.1251	"	"	
65	" "	.1247	"	"	
60	" "	.1243	"	"	
55	" "	.1240	"	"	
105	" "	.1291	"	"	
110	" "	.1299	"	"	
160	" "	.1389	"	"	
175	" "	.1426	"	"	
180	" "	.1439	"	"	
188	" "	.1464	"	"	

EXAMPLE.

Gross weight.....430—90 proof whisky.
Tare..... 62

Weight of Whisky.....368
.1272

736
2576
736
368

46.8096

46 .81 wine gals.
X 90 Proof.

42 .13 proof gals.

Hydrometers.

England, Sykes.	U. S. Internal Revenue.	France, Germany Gay-Lussac.	England, Sykes.	U. S. Internal Revenue.	France, Germany Gay-Lussac.
Under proof.	*Whis. proof.*		*Above proof*		
11	100	50	75	200	100
13	98	49	73	198	99
14	96	48	71	196	98
16	94	47	70	194	97
18	92	46	68	192	96
20	90	45	66	190	95
21	88	44	65	Alco 188 bel	94
23	86	43	63	186	93
25	84	42	61	184	92
27	82	41	59	182	91
29	80	40	58	180	90
30	78	39	56	178	89
32	76	38	54	176	88
34	74	37	53	174	87
36	72	36	51	172	86
38	70	35	49	170	85
39	68	34	48	168	84
41	66	33	46	166	83
43	64	32	44	164	82
45	62	31	42	162	81
46	60	30	41	160	80
48	58	29	39	158	79
50	56	28	37	156	78
52	54	27	36	154	77
54	52	26	34	152	76
56	50	25	32	150	75
57	48	24	31	148	74
59	46	23	29	146	73
61	44	22	27	144	72
63	42	21	26	142	71
64	40	20	24	140	70
66	38	19	22	138	69
68	36	18	20	136	68
70	34	17	19	134	67
71	32	16	17	132	66
73	30	15	15	130	65
75	28	14	14	128	64
77	26	13	13	126	63
79	24	12	10	124	62
80	22	11	9	122	61
82	20	10	7	120	60
84	18	9	5	118	59
86	16	8	3	116	58
88	14	7	2	114	57
89	12	6	*Eng. proof.*	112	56
91	10	5	2	110	55
93	8	4	4	108	54
95	6	3	5	106	53
96	4	2	7	104	52
98	2	1	9	102	51
Water.	Water.	Water			

The Different Alcoholometers.

The following is a table comparing the different Alcoholometers used in France, England and the United States:

FRANCE.		ENGLAND.		FRANCE.		ENGLAND.	
Cartier.	Gay-Lussac. Centesimal.	American Instrument.	Sikes.	Cartier.	Gay-Lussac. Centesimal.	American Instrument.	Sikes.
44	100	100	75		60	20	7
43	99	98	73		59	18	5
42	98	96	71	23	58	16	3
41	97	94	70		57	14	2
	96	92	68	22	56	12	English Proof.
40	95	90	66				
39	94	88	65		55	10	2
	93	86	63		54	8	4
38	92	84	61	21	53	6	5
	91	82	59		52	4	7
37	90	80	58		51	2	9
	89	78	56	20	50	American Proof.	11 below proof.
36	88	76	54				
	87	74	53		49	2	13
35	86	72	51	19	48	4	14
	85	70	49		47	6	16
34	84	68 above proof.	48 above proof.		46	8	18
	83	66	46		45	10	20
33	82	64	44	18	44	12 below proof.	21
	81	62	42		43	14	23
32	80	60	41		42	16	25
	79	58	39		41	18	27
31	78	56	37		40	20	29
	77	54	36	17	39	22	30
30	76	52	34		38	24	32
	75	50	32		37	26	34
29	74	48	31		36	28	36
	73	46	29	16	35	30	38
28	72	44	27		34	32	39
	71	42	26		33	34	41
27	70	40	24		32	36	43
	69	38	22		31	38	45
	68	36	20	15	30	40	46
26	67	34	19		29	42	48
	66	32	17		28	44	50
25	65	30	15		27	46	52
	64	28	14		26	48	54
	63	26	13		25	50	56
	62	24	10				
24	61	22	9				

SPIRITS EXPORTED.

Year.	Taxable proof gals. exported.	Percent-of pro-duction.	Year.	Taxable proof gals. exported.	Percent-of pro-duction.
1889	2,590,235	2 89†	1894	6,114,417	6.85†
1890	1,367,726	1.25†	1895	1,312,006.5	1.64†
1891	1,676,395	1.44†	1896	1,190,258.4	1 37†
1892	3,218,787	2.80†	1897	2,091,788.1	3.25†
1893	3,762,231	2.14†	1898	3,372,864.7	4.18†

PRODUCTION IN BARRELS OF MALT LIQUORS IN THE UNITED STATES

For the Ten Fiscal Years from July 1, 1878, to July 1, 1887.

States and Territories.	1878	1879	1880	1881	1882	1883	1884	1885	1886	1887
Alabama	80	.....	84	.....	.....	28	.....	2,110	7,500	14,140
Arkansas	113	81	21	.....	.....	.....	.....	.....	.....	.....
California	387,429	400,785	395,556	429,169	444,028	469,291	495,082	528,857	549,714	619,198
Colorado	27,472	38,676	61,000	76,275	99,771	100,631	106,271	103,056	104,774	125,891
Connecticut	90,535	94,715	121,993	130,589	176,871	192,873	192,266	181,339	181,440	219,928
Florida	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Georgia	6,152	9,430	11,790	7,486	4,860	11,360	11,871	10,520	11,100	2,675
Illinois	595,650	645,883	805,605	891,825	1,051,680	1,087,408	1,147,632	1,204,493	1,358,874	1,691,200
Indiana	184,403	198,341	260,912	287,725	331,311	332,874	351,011	358,667	385,452	435,685
Iowa	185,893	186,769	232,702	253,002	286,429	267,390	257,986	169,446	195,457	188,149
Kansas	26,057	26,681	32,270	25,872	24,281	25,103	25,437	19,274	17,369	16,458
Kentucky	125,939	149,592	179,464	191,218	219,356	213,938	239,918	249,479	264,139	288,347
Louisiana	41,378	49,070	57,212	53,256	55,645	59,605	85,433	91,772	117,311	124,778
Maryland	244,356	246,834	276,871	305,758	362,324	381,303	424,941	446,728	494,310	566,368
Massachusetts	618,484	591,472	678,246	738,257	836,539	861,972	861,468	885,920	966,639	1,000,957
Michigan	200,655	228,610	284,152	294,882	329,377	340,043	400,198	389,683	436,364	477,880
Minnesota	111,373	118,989	151,920	183,034	215,113	248,150	283,653	278,341	304,485	331,480
Missouri	549,149	614,870	756,527	838,764	1,019,873	1,050,446	1,146,829	1,144,325	1,144,325	1,203,244
Montana	14,823	20,192	23,441	27,703	34,906	41,285	76,122	26,537	28,061	30,164
Nebraska	35,621	38,052	50,319	54,984	71,675	84,751	100,237	108,445	133,315	163,474
New Hampshire	123,157	133,074	183,645	202,552	252,706	270,628	323,449	320,115	629,130	317,685
New Jersey	517,602	539,957	641,344	666,146	810,156	852,203	905,214	953,464	1,055,757	1,213,550
New Mexico	2,030	1,961	1,973	3,930	5,827	5,320	5,970	6,198	7,857	6,253
New York	3,551,889	3,925,922	4,999,099	4,860,637	5,643,627	5,931,303	6,266,691	6,438,625	6,942,300	7,548,350
North Carolina	5	40	98	6	23	36	22	12	.....	.....
Ohio	981,896	1,039,389	1,245,158	1,313,256	1,576,817	1,628,267	1,721,769	1,684,818	1,773,724	1,998,269
Oregon	22,163	24,674	30,798	37,163	39,918	44,498	50,336	46,239	54,900	67,659
Pennsylvania	1,034,660	1,097,214	1,343,207	1,407,287	1,744,602	1,838,018	1,990,807	1,983,205	2,119,773	2,372,849
South Carolina	634	360	2,699	8,408	9,909	8,881	8,954	9,353	14,714	15,585
Tennessee	11,111	7,419	8,311	9,206	9,484	5,317	6,625	9,933	21,937	32,085
Texas	10,363	8,097	4,966	2,957	3,065	2,046	3,334	18,645	31,841	40,658
Virginia	15,462	15,903	18,080	20,530	26,010	27,170	28,628	31,000	36,070	37,830
West Virginia	23,954	24,748	33,842	36,942	48,080	52,541	64,920	67,195	74,498	97,144
Wisconsin	500,983	625,284	853,806	952,209	1,224,422	1,323,214	1,448,845	1,418,159	1,488,315	1,656,523
Total Bbls.	10,241,171	11,103,084	13,347,111	14,311,028	16,952,085	17,757,892	18,998,619	19,185,953	20,710,933	23,121,526

PRODUCTION IN BARRELS OF MALT LIQUORS IN THE UNITED STATES

For the Eleven Fiscal Years from July 1, 1888, to July 1, 1898.

States and Territories	1888	1889	1890	1891	1892	1893	1894	1895	1896	1897	1898
Alabama	14,750	19,787	33,950	39.317	36,948	44,661	36,465	28,766	31,669	36,366	45,581
Arkansas	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
California	656,272	739,968	738,707	772,690	793,646	787,825	727,397	759,772	769,080	756,708	798,042
Colorado	147,935	168,153	188,188	205,939	201,092	234,735	188,164	193,159	210,227	208,858	227,239
Connecticut	260,345	265,719	293,460	334,855	360,216	408,939	432,659	492,231	558,990	571,306	631,163
Florida	.....	.....	.....	.....	.....	.....	.....	.....	.....	2,480	10,908
Georgia	4,671	15,210	36,800	55.243	51,566	69,267	78,407	84,405	104,744	109,300	123,378
Illinois	1,907,442	2,011,691	2,281,249	2,665,133	2,939,149	3,417,295	3,310,134	3,292,324	3,580,724	3,244,896	3,601,163
Indiana	474,434	481,836	518,213	562,008	577,123	638,204	616,067	592,282	627,176	634,178	752,431
Iowa	160,272	103,400	92,105	107,879	115,212	130,565	135,048	127,101	130,686	142,153	175,894
Kansas	14,170	8,290	2,310	1,900	1,650	2,680	6,867	6,013	6,039	6,255	7,189
Kentucky	301,886	291,970	323,764	352,434	340,410	361,653	353,858	367,997	401,380	378,290	436,474
Louisiana	124,610	145,048	199,412	223,696	262,332	292,285	270,150	252,082	248,393	249,250	245,734
Maryland	634,160	658,451	687,130	729,838	792,506	852,621	820,583	837,368	892,042	916,130	981,978
Massachusetts	1,017,031	1,003,141	947,004	1,008,029	1,123,330	1,241,780	1,248,347	1,337,747	1,580,330	1,670,556	1,805,508
Michigan	522,012	519,145	557,576	618,150	650,823	725,215	655,580	659,470	722,244	675,184	792,647
Minnesota	306,473	314,073	332,024	372,654	384,636	416,570	390,303	420,378	463,293	492,814	558,585
Missouri	1,562,528	1,669,304	1,883,614	2,043,933	2,047,696	2,281,149	2,188,449	2,139,224	2,262,048	2,246,477	2,427,719
Montana	64,211	71,652	73,628	80,882	82,781	85,847	73,137	87,044	110,462	132,610	159,295
New Hampshire	168,379	174,649	162,339	153,493	151,429	170,772	178,272	179,617	176,132	173,498	213,152
Nebraska	342,636	338,944	389,956	386,055	429,678	403,155	364,292	368,525	384,144	285,554	313,739
New Jersey	1,316,052	1,364,390	1,526,590	1,640,876	1,793,649	1,915,780	1,892,805	1,894,541	2,023,926	2,001,029	2,109,791
New Mexico	6,056	6,264	7,106	6,880	6,835	7,114	4,593	4,978	4,706	3,891	4,218
New York	7,978,592	8,088,390	8,572,223	9,230,634	9,558,744	9,978,449	9,772,235	9,758,801	10,051,047	9,490,132	10,090,754
North Carolina	.....	.....	.....	.....	.....	.....	.....	.....	5	.....	80
Ohio	2,195,877	2,102,789	2,393,124	2,661,062	2,668,494	2,834,807	2,621,012	2,633,067	2,879,668	2,631,669	2,886,830
Oregon	82,162	110,913	172,870	230,944	234,117	220,725	174,192	175,945	180,494	188,274	234,908
Pennsylvania	2,479,343	2,367,199	2,762,352	3,145,321	3,203,632	3,584,333	3,447,940	3,591,338	4,047,084	3,902,280	4,245,864
South Carolina	12,540	10,017	9,305	9,240	6,221	5,265	9,541	9,395	11,101	8,400	7,190
Tennessee	38,778	47,639	67,800	90,415	99,115	97,425	82,108	82,090	93,760	111,590	130,226
Texas	50,945	55,233	70,080	91,795	115,393	131,218	187,942	221,284	249,620	265,568	322,216
Virginia	49,270	46,650	51,085	61,759	62,314	79,480	76,060	76,617	87,525	102,254	138,144
West Virginia	103,307	102,366	119,929	136,321	134,106	152,343	111,300	109,222	116,177	123,125	142,222
Wisconsin	1,683,140	1,817,572	2,067,961	2,477,834	2,631,783	3,019,022	2,908,461	2,807,001	2,854,334	2,662,019	2,873,044
Total Bbls	24,680,219	25,119,853	27,561,944	30,497,209	31,856,626	34,591,179	33,362,373	33,589,784	35,859,250	34,423,094	37,493,306

MALT LIQUORS.

Statement showing the internal revenue receipts from malt liquors at $1 00 per barrel, at 60 cents per barrel and at $2 per barrel, together with the quantities of the same on which tax is paid during each fiscal year, from Sept. 1, 1862 to June 30, 1898.

Fiscal years ended June 30—	Rates of tax at which collections were made.	Aggregate collections at each rate.	Aggregate quantities at each rate.	Aggregate collections for each fiscal year.	Aggregate quantities in barrels and their equivalents in gallons for each fiscal year.	
			Barrels.		*Barrels.*	*Gallons.*
1863	1.00	$885,271.88	885,272	$ 1,558,083.41	2,006,625	62,205,375
	.60	672,811.53	1,121,353			
1864	.60	1,376,491.12	2,294,152	2,223,719.73	3,141,381	97,382,811
	1.00	847,228.61	847,229			
1865	1.00	3,657,181.06	3,657,181	3,657,181.06	3,657,181	113,372,611
1866	1.00	5,115,140.49	5,115,140	5,115,140.49	5,115,140	158,569,340
1867	1.00	5,819,345.49	6,207,402	5,819,345.49	6,207,402	192,499,462
1868	1.00	5,685,663.70	6,146,663	5,685,663.70	6,146,663	190,546,553
1869	1.00	5,866,400.98	6,342,055	5,866,400.98	6,342,055	196,603,705
1870	1.00	6,081,520.54	6,574,617	6,081,520.54	6,574,617	203,813,127
1871	1.00	7,159,740.20	7,740,260	7,159,740.20	7,740,260	239,948,060
1872	1.00	8,009,969.72	8,659,427	8,009,969.72	8,659,427	268,442,237
1873	1.00	8,910,823.83	9,633,323	8,910,823.83	9,633,323	298,633,013
1874	1.00	8,880,829.68	9,600,897	8,880,829.68	9,600,897	297,697,807
1875	1.00	8,743,744.62	9,452,697	8,743,744.62	9,452,697	293,033,607
1876	1.00	9,159,675.95	9,902,352	9,159,675.95	9,902,352	306,972,912
1877	1.00	9,074,305.93	9,810,060	9,074,305.93	9,810,060	304,111,860
1878	1.00	9,473,360.70	10,241,471	9,473,360.70	10,241,471	317,485,601
1879	1.00	10,270,352.83	11,103,084	10,270,352 83	11,103,084	344,195,604
1880	1.00	12,346,077.26	13,347,111	12,346,077.26	13,347,111	413,760,441
1881	1.00	13,237,700.63	14,311,028	13,237,700.63	14,311,028	443,641,868
1882	1.00	15,680,678.54	16,952,085	15,680,678.54	16,952,085	525,514,635
1883	1.00	16,426,050.11	17,757,892	16,426,050.11	17,757,892	550,494,652
1884	1.00	17,573,722.88	18,998,619	17,573,722.88	18,998,619	588,957,189
1885	1.00	17,747,006.11	19,185,953	17,747,006.11	19,185,953	594,764,543
1886	1.00	19,157,612.87	20,710,933	19,157,612.87	20,710,933	642,038,923
1887	1.00	21,387,411.79	23,121,526	21,387,411.79	23,121,526	716,767,306
1888	1.00	22,829,202.90	24,680,219	22,829,202.90	24,680,219	765,086,789
1889	1.00	23,235,863.94	25,119,853	23,235,863.94	25,119,853	778,715,443
1890	1.00	25,494,798.50	27,561,944	25,494,798.50	27,561,944	854,420,264
1891	1.00	28,192,327.69	30,478,192	28,192,327.69	30,478,192	944,823,952
1892	1.00	29,431,498.06	31,817,836	29,431,498.06	31,817,836	986,352,916
1893	1.00	31,962,743.15	34,554,317	31,962,743.15	34,554,317	1,071,183,827
1894	1.00	30,834,674.01	33,334,783	30,834,674.01	33,334,783	1,033,278,273
1895	1.00	31,044,304.84	33,561,411	31,044,304 84	33,561,411	1,040,403,741
1896	1.00	33,139,141.10	35,826,098	33,139,141.10	35,826,098	1,110,609,038
1897	1.00	31,841,362.40	34,423,094	31,841,362.40	34,423, 94	1,067,115,914
1898	1.00	34,480,524.23	35,112,426	38,885,151.63	37,493,306	1,162,292,486
	2.00	4,404,627.40	2,380,880			
Total		576,137,187.27	618,570,835	576,137,187.27	618,570,835	19,175,695,885

INTERNAL REVENUE FROM ALL SOURCES RECEIPTS FOR THE PAST TEN FISCAL YEARS.

Fiscal year ended	
June 30, 1898	$170,866,819.36
June 30, 1897	146,619,593.47
June 30, 1896	146,830,615.66
June 30, 1895	143,246,077.75
June 30, 1894	147,168,449.70
June 30, 1893	161,004,989.67
June 30, 1892	153,857,544.35
June 30, 1891	146,035,415.97
June 30, 1890	142,594,696.57
June 30, 1889	130,894,434.20

PART VI.

QUESTIONS AND ANSWERS

AND

GENERAL INFORMATION.

CHAPTER I.

QUESTIONS AND ANSWERS ON PRACTICAL BUSINESS MATTERS.

May the name "Distillery Company" be used on sign by company not distilling?

How is sour mash distilled?

May retail dealers mix liquors?

What power has Congress in prohibiting liquor traffic?

Liability of carrier for damage to goods in shipment.

Do the words "interest and charges" in a warehouse receipt cover a purchase clause?

Does air improve quality of whisky?

Difference between license and mulct tax.

Can tax on goods in bond destroyed by fire be enforced?

Is wholesale tax based upon proof gallons or wine gallons?

On construction of shipping under false name.

Has dealer to give bond if goods are made under his name?

Is new special tax required after dissolution of partnership?

Liability of express company in a prohibition state.

Assignee may sell stock under his assignor's special tax.

Can vintner sell his produce without special tax?

Must wine bottles be stamped?

Must wine bottles and jugs be stamped?

What is dividing date between fall and spring inspection?

Is seller obliged to notify buyer goods are uninsured?

Who is liable for storage?

Liability for special tax on sale of whisky in bond.

Must buyer or seller pay drayage?

Can retailer put up sign as wholesale dealer?

How is tax on reimported whisky determined?

Liability of salesman to special tax.

Can tax-paid whisky remain in bonded warehouse?

Can part of barrel be retransferred from retail to wholesale dealer?

Must capacity of barrel and proof be put on bung stave when goods are shipped?

Can reimported whisky be regauged in custom house?

On correction of volume.

What quantity can retailer sell of different kinds at one time?

On restamping of packages.

What quantity of liquor requires rectifier's stamp?

Is revenue stamp required on any quantity less than five wine gallons?
On refilling two-stamp and one-stamp whiskies.
On reducing proof to original inspection.
Can rectifier's stamp be changed for wholesale stamp?
Can barrels be refilled and how to enter on Form 52.
Quantity of peaches required to produce a gallon of brandy.
Stamps in relation to prune juice.
Outage on reimported domestic whiskey.
Indiana state tax.
Scale for remuneration of salesmen.
Fifteen points on keeping Form 52.

MAY THE NAME "DISTILLERY COMPANY" BE USED ON SIGN BY COMPANY NOT DISTILLING?—

QUESTION.

Our Internal Revenue Collector demands that we remove from our firm name on the front of our building the words "Distillery Company," claiming that it is contrary to law to put out such a sign when one is not a bona fide distiller. Kindly let us know whether such is the law?

ANSWER.

The collector is wrong. Your firm being incorporated, and hence authorized by law to conduct business as a distilling company, he cannot preclude you from making use of your own legal appellation. The law merely prescribes that you are not allowed to use the word "Distiller" if you are not a distiller.

The term "Distilling Company" might apply to many other things besides distilling of spirits, such as distillation of herbs, essences, perfumes, and even of water, and if your collector were right in his contention, he could just as well preclude firms that did distill these substances as he could you from putting up a sign with their firm name in connection with the words "Distilling Company."

If you were to put the word "Distillers" along with your firm name as "Distilling Company," you would be liable to the penalty of the law; without the word "Distiller," he cannot interfere with you.

HOW IS SOUR MASH DISTILLED?

QUESTION.

Please give us the correct process of what is understood to be sour mash distillation.

ANSWER.

Distillers themselves are not agreed as to exact formula for this process. In order to avoid taking sides, we confine our answer to the statement as defined by the Internal Revenue Department, which is as follows:

"Sour-mash distilleries may be briefly described as those in which no fermenting agent other than spent beer or slop is used,

but the grain is mixed with the slop directly from the still and allowed to remain twenty-four hours, at the end of which period the mash becomes hard and sour. It is then broken up and reduced with water, and allowed to undergo a natural fermentation, and it is believed that where spent beer or slop is the only fermenting agent used, the fermentation is not so rapid as in sweet-mash distilleries, where yeast is used, and a fermenting period of ninety-six hours (and not more than sixty gallons of beer to represent a bushel of grain) will be allowed in all sour-mash distillries, without reference to the manner of heating, stirring or distillation.

"In the case of distilleries in which the mashing and fermenting are done in the same tubs the twenty-four hours used for mashing will be included in the ninety-six hours allowed by the statute for fermentation, and all the tubs in the distillery will be treated as fermenters, and be embraced in the estimate of the capacity. Where the distiller prefers, he may set aside certain of his tubs to be used exclusively for mashing, marking them each distinctly 'mash tub,' and in such cases the capacity will be estimated upon the tubs used for fermenters."

MAY RETAIL DEALERS MIX LIQUORS?—

QUESTION.

Is a retail dealer allowed to mix or compound liquors behind his bar in quantities of less than five gallons, without rendering himself liable to special tax as rectifier?

ANSWER.

Yes, he is.

Under the law a retailer can mix and compound behind the bar in advance of orders in quantities of less than five gallons in the same manner as a rectifier. This must be done, however, merely for the convenience of his patrons and not for the purpose of putting the liquor up in bottles and setting it on the shelf for sale. He can draw from the stock so prepared and sell by the jug, bottle, or drink at the time the customer gives his order.

WHAT POWER HAS CONGRESS IN PROHIBITING LIQUOR TRAFFIC?—

QUESTION.

Can Congress pass a law prohibiting the states from the manufacture or sale of intoxicating liquors?

ANSWER.

Under the constitution Congress has power to pass laws for the general welfare of the United States. It is therefore able without the co-operation of the separate states, or in spite of their opposition, to tax, or prohibit by means of taxation, the

liquor traffic upon an extensive scale. It may lay duties on imported liquors, or admit them free, or it may levy taxes upon the home manufacture of liquors, or it may by treaty join any international agreement concerning the liquor traffic, and, no doubt, it may arbitrarily license or forbid the traffic of liquors in all the territories and the District of Columbia, and in all the federal buildings, in the army and navy and among the Indians. But, though it can thus act in a general way, the national government cannot, under the Constitution, enact special liquor laws of any kind for individual states, nor can it disturb the laws that these states may pass for themselves, unless certain provisions of these laws are in conflict with the Federal Constitution. It is, therefore, plain that liberty to deal with the liquor business within the states must of necessity be confined to the states themselves.

LIABILITY OF CARRIER FOR DAMAGE TO GOODS IN SHIPMENT?—

QUESTION.

Is there any decision bearing on the question of liability for damage to goods in shipment, and as to the usual claim limit for damages on bills of lading?

ANSWER.

These questions were up for the Supreme Court of Texas on appeal and the following is their dictum:

"Where goods are transported over connecting lines, and are injured in course of transit, if the injury is shown to have occurred after shipment, the presumption is, until rebutted by competent evidence, that the goods were injured by the shipper who delivered them to the consignee. The provision in a bill of lading that claims for loss or damage must be presented to the delivering line within thirty-six hours after delivery will not be specifically enforced when reasonable ground for failure to comply strictly with the limitation is shown."

DO THE WORDS "INTEREST AND CHARGES" IN A WAREHOUSE RECEIPT COVER A PURCHASE CLAUSE?—

QUESTION.

We are holders of warehouse receipt reading:

"Received in the bonded warehouse —— the whisky described below, to be held by us for account of and subject to the order of ———— ————, and deliverable only after payment of the United States government tax and the state tax, interest and charges, and on written order of the holders of this receipt and return of same to us."

Do you consider this receipt as containing a purchase clause?

ANSWER.

The wording of the above receipt is certainly ambiguous and such as to lead to a possible construction that it contains a purchase clause. The word "charges" alone is often used in receipts and has been generally understood as referring to storage, drayage and in some cases expense for regauge. The word "interest" points directly to a purchase clause, for other charges such as storage, etc., do not carry interest.

We would not, however, state positively that this involves purchase clause, but will state that on the word "charges" alone a contention was set up of purchase clause, and delivery refused, in the case of a distiller against a party who failed to pay for the goods. We are of opinion that when the word "interest" is added to "charges" the contention for purchase clause is made stronger still.

DOES AIR IMPROVE QUALITY OF WHISKY?—

QUESTION.

Does whisky get smooth sooner by making a hole in the bung?

ANSWER.

Boring a hole with a small gimlet in the bungs of barrels when first placed in bond has the effect to get rid of the obnoxious gases found in all new whiskies, which, if not permitted to escape in this way, will eventually force their way through the timber, or worm holes, should there be any. After the whisky has gone through this process of evaporation the gimlet hole is still sufficiently large to permit the ingress of the atmospheric air which assists in neutralizing the essential oils. We think that the same object would be accomplished by leaving the bungs out of the barrels, but the evaporation of the alcoholic spirits would be much greater. Under this process it is alleged the outs on barrels seldom exceed the outage allowed, notwithstanding the fact that the staves and heads are heavily charred.

DIFFERENCE BETWEEN LICENSE AND MULCT TAX.—

QUESTION.

What is the difference between a license or local option plan and the mulct tax system?

ANSWER.

The principal difference is that the license system legalizes the saloon, and the tax or mulct plan does not. The latter does not recognize the saloon as a legal institution, while the former does. In order to put the license system in operation it is necessary to repeal prohibition, while no such step is needed if the tax plan is resorted to as a means to control the liquor business.

CAN TAX ON GOODS IN BOND DESTROYED BY FIRE BE ENFORCED?—

QUESTION.

In case of goods in bond being destroyed by fire, can the government enforce payment of tax?

ANSWER.

The law plainly provides that the government can hold the distiller on his bond for the tax on goods destroyed by fire. This, however, has rarely been enforced. The fact that the fire has not been caused by negligence or fraud on the part of the distiller has been sufficient to exempt him from being further punished by having to pay tax. This has been the custom of every commissioner.

IS WHOLESALE TAX BASED UPON PROOF GALLONS OR WINE GALLONS?—

QUESTION.

Does a wholesale special tax cover the sale of a can containing 4⅞ gallons of 188 degrees proof?

ANSWER.

No. A wholesale liquor dealer is defined by the statute as one who sells in quantities not less than five wine gallons. If less is sold the act constitutes a retail transaction, and is outside the pale of wholesale. The degrees of proof cut no figure. The five wine gallons are estimated by quantity, not proof.

ON CONSTRUCTION OF SHIPPING UNDER FALSE NAME.—

QUESTION

"Whenever any person ships, transports or removes any spirituous or fermented liquors or wines under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or causes such acts to be done, he shall forfeit said liquors or wines and casks or packages and be subject to pay a fine of $500."

Please explain the force of the above regulation and for what it is intended to apply.

ANSWER.

The above regulation is intended to forbid the enclosing of liquors in another package so as to conceal the fact of their being liquors. The government wishes to have them always open to inspection, so as to be able to enforce their regulations. This applies to liquors in all states alike, whether in those under prohibitory laws or otherwise.

HAS DEALER TO GIVE BOND IF GOODS ARE MADE UNDER HIS NAME?—

QUESTION.

If a distiller puts up a special brand for a wholesale dealer under the dealer's name as distiller, has the dealer to give bond for the lot so made in his name, or does the distiller's bond cover also the lot made in the other's name?

ANSWER.

A distiller (not a corporation) can change the style of the name under which he regularly operates, and by that means place upon his barrels the name to which he may change without giving a new bond (Form 30), provided that the bond provides for such change of the style of the firm, or the consent of the sureties to the change is first obtained. For instance, John Wilson & Co., distillers, may by the proper notice change the style of the name under which they operate to "John Wilson & Co., doing business as Wm. Rankin & Co.," and operate under that name, the product would be so branded, that is, "Wm. Rankin & Co.," and a separate warehouse bond (Form 80) would be necessary. In such case the product might be considered a special brand put up for Wm. Rankin & Co., wholesale liquor dealers.

IS NEW SPECIAL TAX REQUIRED AFTER DISSOLUTION OF PARTNERSHIP?—

QUESTION.

I have dissolved partnership and wish to continue business and change business location in the same city. Must I take out a new special tax?

ANSWER.

No. A ruling of the Commissioner of Internal Revenue permits surviving partner to continue in his own name under the old special tax, even if location be changed.

LIABILITY OF EXPRESS COMPANY IN A PROHIBITION STATE.—

QUESTION.

A box of liquor is shipped by express to a point in Iowa. After consignee had notice of its arrival, he declined to take it until a few days later; in the meantime, the liquor having been stolen, the express company refuses to make good the loss, claiming that after notification they were held subject to owner's risk. Can the express company be made to pay the loss?

ANSWER.

The express company is liable to the consignee, but, as the Iowa law does not recognize claims for liquors, the only alternative left is for the consignee to transfer the claim to the con-

signor, which would enable the latter to take action in the courts.

ASSIGNEE MAY SELL STOCK UNDER HIS ASSIGNOR'S SPECIAL TAX.—

QUESTION.

Is it necessary for an assignee to take out a special tax to sell a stock of liquors that came into his hands?

ANSWER.

No. The assignee can invoice in his own name as assignee of the stock that has come into his hands as such. This would not refer to any stock that may have come in for replenishment after his assigneeship has begun.

CAN VINTNER SELL HIS PRODUCE WITHOUT SPECIAL TAX?—

QUESTION.

Can a wine producer sell his produce in any part of the state by actual delivery, where the wine is grown, in barrels and bottles, without paying internal revenue tax?

ANSWER.

Yes, either by actual or constructive delivery. Sec. 3246 Revised Statutes of the United States states that nothing in the chapter of special taxes shall be construed as imposing a special tax upon vintners who sell wine of their own growth, or manufacturers who sell wine produced from grapes grown by others, at the place where the same is made or at the general business office of such vintner or manufacturer; provided, that no vintner or manufacturer shall have more than one office for the sale of such wine that shall be exempt from special tax.

Under this provision it is held that the manufacturer or vintner may sell at two places at the same time, viz: The place where he made the wine and his general business office, without paying special tax.

MUST WINE BOTTLES BE STAMPED?—

QUESTION.

Must a retailer place stamp on a bottle of wine which he is filling from stock which he intends to sell by the glass?

ANSWER.

No. On September 1, 1898, the Commissioner of Internal Revenue says:

"Where a retail dealer fills a bottle from a barrel for his bar stock, from which he sells by the glass, he is not required to stamp the bottle. Bottles of wine sold at retail over the bar are taxable, and must be stamped."

MUST WINE BOTTLES AND JUGS BE STAMPED?—

QUESTION.

How would you decide the following: A retail dealer has on tap a barrel of California sweet wine, port, sherry or Angelica. A customer walks in with a quart bottle and says: "Please fill this bottle for me" or "Give me a quart of port wine in this bottle." Must the bottle be stamped by the seller? The next moment a customer enters with a pitcher or bucket and says: "Give me a quart of port wine in this vessel." The quart of wine is sold to him out of the same barrel from which the bottle was filled. There is nothing in any law requiring the stamping of pitchers or pails. Is it only bottles that must be stamped? Or do bottles filled from a cask on tap need to be stamped any more than a bucket or pitcher?

ANSWER.

In regulation No. 19735, dated July 20, the Commissioner of Internal Revenue distinctly answers that part of the question as to refilling a bottle with wine, when the bottle is presented by the customer. It must be stamped every time it is refilled.

The question as to a pitcher or jug is fully met in a regulation of September, 1898, from which we quote the following:

"Demijohns and jugs containing wine exposed for sale, which are manifestly substitutes for uncovered bottles, will be considered as bottles, and must be stamped accordingly. The fact that small bottles used for containing wine are surrounded with wickerwork or are composed of earthen or stoneware with a handle attached will not relieve them from liability to the tax imposed by the new law; but jugs or demijohns containing a gallon or upward, filled from packages containing wines in bulk for delivery as orders arise, would not be considered as bottles within the meaning of the law. In general, it may be said that kettles, pitchers, demijohns, and jugs containing wine do not require stamps, unless these vessels are of such size and material as show them to be used as bottles or substitutes for bottles for the purpose of evading the tax, in which case they must be stamped."

WHAT IS DIVIDING DATE BETWEEN FALL AND SPRING INSPECTION?—

QUESTION.

We bought ten barrels of whisky designated as Fall '93; when gauger's certificate was received we found that the inspection was December 14. We have refused the goods, claiming that they were not what is termed fall inspection.

ANSWER.

The rule is that all goods made in December, even on the last day of the month, are classed as fall goods, while those made

in January, even on the first of the month, are termed spring. This does not, of course, indicate that the former are any better than the latter, but they are so named on account of the season of inspection, and sometimes the inspection enables December goods to command a little higher rate.

IS SELLER OBLIGED TO NOTIFY BUYER GOODS ARE UNINSURED?—

QUESTION.

In a sale of bonded goods, where the seller fails to notify the buyer that goods are uninsured and at owner's risk, and there is a loss by fire, has the buyer good cause for damages against the seller on account of the failure to notify?

ANSWER.

Purchaser takes goods at his own risk, and seller has neither legal nor moral right to pay for insurance on goods with whose possession he has parted, and it is merely a matter of courtesy to notify as to insurance. Even if seller has had insurance, that can be transferred to buyer only by notice to and the consent of the insurance company, and buyer would be entitled to reimburse seller for insurance.

WHO IS LIABLE FOR STORAGE?—

QUESTION.

When a distiller sells whisky in bond, and nothing is said as to the storage, is not the buyer liable for it?

ANSWER.

If no stipulation is made either verbally or otherwise, the buyer is certainly liable for storage from the time of the purchase. When the distiller sells his product, it is the privilege of the buyer to remove it from his warehouse. If he choose to leave it, the distiller becomes merely the warehouseman, and as such he is clearly entitled to storage the same as any other warehouseman.

While some distillers may make a concession of free storage for a certain period, this is not by any means a universal custom. Hence such exceptional terms must be expressly stipulated, and unless this is done, the buyer is liable for storage from time of purchase.

LIABILITY FOR SPECIAL TAX ON SALE OF WHISKY IN BOND.—

QUESTION

Suppose I buy fifty barrels of whisky in bond on speculation (I am a retail dealer). Can I sell whisky in bond without taking out special wholesale tax, and how?

ANSWER.

The law does not prevent anyone buying goods, but regards

the sale of warehouse receipt in the same light as whisky proper, and such a sale carries with it the liability for wholesale tax. In order to dispose of the warehouse receipts you must give them to some licensed wholesale dealer or broker to sell for you on commission.

MUST BUYER OR SELLER PAY DRAYAGE?—

QUESTION.

I have bought 25 barrels of tax paid whisky stored with the distiller in a free warehouse. I find quite a charge by the distiller for transportation for drayage to the railroad seven miles distant. I claim that in stating a price it is generally understood F. O. B. Am I right?

ANSWER.

No. Drayage to depot is a part of the transportation, and as such must be borne by you the same as freight. Some distillers consider it incumbent on them to deliver goods F. O. B., but this is not obligatory.

CAN RETAILER PUT UP SIGN AS WHOLESALE DEALER?—

QUESTION.

John Smith commenced business on the 1st day of May, selling liquors at the bar and in quantities *under 5 gallons.* The sign in front of his place of business reads: "John Smith, *Wholesale* and Retail Dealer in Wines and Liquors." Now, does the fact that the word "*wholesale*" appears on his sign make him liable to pay the special tax of a wholesale dealer, and can payment of such tax be enforced by the revenue department on this ground?

ANSWER.

No. The mere hanging out of a sign, which is in its very nature mere advertising, does not constitute him a wholesale dealer. There must be proof of wholesale transaction. Still it is against the law, for Sec. 3279 R. S. reads as follows:

"And every person, other than a rectifier or wholesale liquor dealer who has paid the special tax, or a distiller who has given bond as required by law, who puts up or keeps up the sign required by this section, or any sign indicating that he may lawfully carry on the business of a distiller, rectifier or wholesale liquor dealer, shall forfeit and pay one thousand dollars, and shall be imprisoned not less than one month nor more than six months."

HOW IS TAX ON REIMPORTED WHISKY DETERMINED?—

QUESTION.

Please inform us what are the government regulations in

regard to whisky and spirits reimported. Is the tax payable on the actual contents after regauge?

ANSWER.

Upon reimportation the tax is collected only on what is in the packages. When the goods are below proof it is collected upon wine gallons and when above proof on proof gallons. If there are but five gallons in a barrel the tax payable is on only that amount.

LIABILITY OF SALESMAN TO SPECIAL TAX.—

QUESTION.

Can a man traveling for a liquor house have goods shipped to himself and give written order to customer to receive goods from railroad, if he is either on salary or commission?

ANSWER.

He cannot without liability to special tax.

QUESTION.

Can a man have a certain price fixed on goods, and all he gets over and above shall be his commission or salary, he guaranteeing payment of bills, and in this case could he order goods shipped to his name and give customers order to receive same from railroad?

ANSWER.

He can take orders for goods under the conditions of the first part of this question, without liability to special tax, but the last conditions would make him liable for special tax.

QUESTION.

If goods are shipped to party and he refuses to receive same, can agent of house transfer them to another party? Could he pay expressman and personally attend to transfer or delivery of goods in this case?

ANSWER.

Not without paying special tax.

QUESTION.

Can a man have a fixed share of the profits to be his commission or salary, or to be equal to his commission or salary?

ANSWER.

Yes, provided he does not have possession of the goods; simply takes orders for them.

MUST WHISKY BE TAX-PAID IF OUTAGE IS EXCESSIVE?—

QUESTION.

Please advise us if whisky regauged at the end of four years and showing a loss of fourteen gallons—five gallons over government allowance—has to be tax paid at that time. Also, if when tax paid it could remain in government warehouse

ANSWER.

If the outage on gauging exceeds the government allowance by 100 per cent then it is regarded as excessive, and the package must be tax-paid, and taken out of bond, allowance being made for the normal outage allowed by law.

In your case, the outage being under 18 gallons, the matter will be referred to the commissioner, if the collector thinks there is anything in the condition of the warehouse or in the cooperage that demands action on the part of the government to protect their lien for taxes. Unless this is the case, your goods can remain for the full bonded period if you desire.

In all cases where the government forces payment of tax, the goods must be taken from bonded warehouse.

CAN PART OF BARREL BE RETRANSFERRED FROM RETAIL TO WHOLESALE DEALER?—

QUESTION.

No. 1. Can a wholesale dealer, after entering a barrel of whisky in Form 52 B as "Retail," again enter the same barrel in Form 52 A, and then again dispose of the barrel to another party and again enter the barrel in Form 52 B as disposed of to that party; or,, in other words, suppose a wholesale dealer has only one barrel of whisky in his store; he cannot dispose of the whole barrel, and he concluded to retail it out; he accordingly enters the barrel in Form 52 B as "Retail;" after he sold, say, five gallons, he has a chance to sell the remaining contents of that barrel. He says to the party, as far as I understand the law, I cannot sell you the contents of the barrel as a whole, but I can give you four and one-half gallons at a time. This the man refuses. Now, is the law so conducted that I must lose the sale of that whisky and deprive me of making a living, or can I enter the barrel again in Form 52 A and afterward enter it in Form 52 B to that party?

No. 2. Secondly, suppose a barrel of whisky was originally 101 per cent.; after a lapse of three or more years it arrives in our store with a regauge, and find it rose to 110 per cent.; can we reduce the whisky in the barrel to its original per cent. without permission from the Internal Revenue Department, notice having been given to the Collector on Form 262 in presence of gauger?

No. 3. Thirdly, can we reduce whisky in the barrel from its original per cent without the permission of the Internal Revenue Department?

ANSWER.

No. 1. When a party carries on the business of wholesale and retail liquor-dealer on the same premises, he may take credit on this account for spirits disposed of at retail, which he has entered as received, by

setting aside packages from which to draw for retail only, and entering them as disposed of to himself as retail dealer.

In other words, he can draw off from the original packages quantities less than five gallons, entering them as disposed of to himself as retail dealer, but it would be contrary to the spirit, if not to the letter of the law, for him, after he has sold part of the quantity thus drawn off, to again deposit the balance unsold in the original package.

Nos. 2 and 3. No. The contents of original packages can only be reduced in the presence of a United States gauger, or deputy collector, and after he has given notice to the Internal Revenue Department on Circular No. 262, which provides that "the contents of original packages which have been restored to their original proof by the simple addition of water, in the presence of a United States gauger, the dealer, after such reduction will legibly mark upon the stamp head of the casks in letters not less than three-eighths of an inch in length, taking care to properly fill the blank spaces.

Reduced to .....Proof.....By .....Wholesale Liquor-Dealer ....No.....S.....Before.....U. S. Gauger .....Dist. of.....189.....

MUST CAPACITY OF BARREL AND PROOF BE PUT ON BUNG STAVE WHEN GOODS ARE SHIPPED?—

QUESTION.

Is it lawful to ship goods out under a wholesale liquor dealer stamp without putting the capacity of the barrel and the proof of the goods on the bung-stave of the barrel? We understand that the law would govern both barrels and barrels or kegs.

ANSWER.

There is no law covering this point, and it is not essential that the capacity of package with its proof should be indicated on the bung stave; this being left entirely to the option of the shipper.

CAN REIMPORTED WHISKY BE REGAUGED IN CUSTOM HOUSE?—

QUESTION.

Is whisky allowed to be regauged in bond after being re-imported and stored in custom house nine months?

ANSWER.

Yes; the collector of customs will furnish the owner with a permit to regauge at his own expense.

ON CORRECTION OF VOLUME.—

QUESTION

Correction of volume to be added or subtracted from want

age in the following instance? Say indication is 94 and temperature 35. We received, say from Cincinnati, the temperature, which is about the same as Kentucky and date of gauge likewise, and they allow us the half-gallon while Kentucky adds the half-gallon.

ANSWER.

The proof on an indication of 94, temperature 35, is 104.3; correction of volume of 1.1 per cent should be added, which will make a fraction less than half a gallon to be added to the contents of the barrel. We further exemplify this as follows:

	Wantage.	Correction.	Indication.	Temp.	
(1)	44½	½	104	60	44 gal.
Dist. regauge.					
(2)	44½	0 Add ½	91	35	45 gal.

You will notice from example (1) that the package was at the time of original gauge at a temperature of 60, and at that temperature no correction was allowed, but a want of half a gallon. This making the package to contain 44 gallons net. When package was reganged (2) it had lowered its indication and temperature to below 60, reaching 35 per cent. In this case the entire wantage has disappeared, leaving the contents of the package the same, to which, however, the correction of half a gallon had to be added, making in all 45 gallons of contents. The rule established by the United States Internal Revenue is as follows: When the temperature is above 60 subtract and when below 60 add to net contents.

WHAT QUANTITY CAN A WHOLESALER SELL OF DIFFERENT KINDS AT ONE TIME?—

QUESTION.

Will you inform us on the following: If we hold only a wholesale special tax, can we sell a single case of imported goods (say a case of Hennessey brandy), or can we sell a mixed bill, say a barrel of whisky and a case of other goods.

ANSWER.

Any quantity under five wine gallons would involve the necessity for a special tax stamp as a retail dealer.

ON RESTAMPING OF PACKAGES.—

QUESTION.

(1) Is a wholesale liquor dealer required to mark or stamp the proof and amount on any package which he has restamped from another package?

(2) Also, if he can restamp an original package of rectified goods, provided all the original marks have been erased therefrom?

ANSWER.

(1) Dealer is not required to affix any mark on bung stave, nor required to affix mark indicating proof, but the marks required on the stamp head are the name of the spirits contained in the cask as known to the trade, and the number of the United States stamp affixed, in addition to the dealer's own name and address.

(2) After all the official marks and stamp of rectified spirits have been removed the package becomes a new package, and can be stamped with a wholesale liquor dealer's stamp.

WHAT QUANTITY OF LIQUOR REQUIRES RECTIFIER'S STAMP?—

QUESTION.

Can a rectifier's stamp be legally placed on a can containing four (wine) gallons of 125° proof?

ANSWER.

No. Can must contain not less than five wine gallons.

IS REVENUE STAMP REQUIRED ON ANY QUANTITY LESS THAN FIVE WINE GALLONS?—

QUESTION.

Please state whether a shipment of three gallons alcohol, proof 188, boxed, requires the placing of an internal revenue stamp thereon ?

ANSWER.

No stamp required on any quantity less than five wine gallons.

ON REFILLING TWO-STAMP AND ONE-STAMP WHISKIES.—

QUESTION.

If I have two packages of liquor, both of the same proof, containing the same kind of liquor, and made under different dates in the same year, can I empty the contents of both together in a package and get a stamp for the same as if they had been made and stamped the same day?

ANSWER.

If the inquiry refers to two-stamp whiskies made by the same distillery and of same inspection, you are allowed to refill packages, but this makes you liable as a rectifier. If you are a rectifier you can apply for wholesale liquor stamp to substitute the two stamp packages.

If the inquiry applies to one-stamp packages, refilling of packages is not permitted.

ON REDUCING PROOF TO ORIGINAL INSPECTION.—

QUESTION.

We have a barrel of whisky, original gauge 50 wine and 51 proof gallons. When it was tax-paid there were 40 wine 44 proof gallons. Query—Can we reduce this to 100° in the presence of the gauger, or only to original proof, 102°?

ANSWER.

Proof can be reduced in the original package in presence of gauger only to the original proof, in your case 102°, and to no other.

If you desire to reduce to other than the original proof, you must apply for W. L. D. stamp, must affix this on the package, after destroying government stamps and marks, thus virtually destroying the originality of the package itself.

CAN RECTIFIER'S STAMP BE CHANGED FOR WHOLESALE STAMP?—

QUESTION.

A, who is a wholesale dealer, but not a rectifier, receives a package containing forty-five gallons from B. Can A cut that rectifier's stamp and receive a wholesale stamp therefor from the collector of A's district for the same amount of gallons (forty-five)?

ANSWER.

He can.

CAN BARRELS BE REFILLED AND HOW TO ENTER ON FORM 52.—

QUESTION.

One barrel whisky, '92, original gauge 42 gallons; tax-paid stamp, 37½ gallons; outs when shipped and regauged, 9½ gallons. Can this barrel be filled to contain 37½ gallons, and which of the two gauges have to go in Form 52?

ANSWER.

The "filling up" is not admissible. The tax-paid gauge and also the name of the gauger of the same who affixed the tax-paid stamp should be on Form 52.

QUANTITY OF PEACHES REQUIRED TO PRODUCE A GALLON OF BRANDY.—

QUESTION.

How many bushels of peaches required to produce one gallon of brandy?

ANSWER.

This is a somewhat difficult question to answer accurately, as all peaches are not alike in size or degree of ripeness. Some are sound, others green, and others in the last stage of de-

composition when the distiller gets them. However, a bushel of average peaches will make a gallon of brandy; at least this is what a majority of brandy distillers claim.

STAMPS IN RELATION TO PRUNE JUICE.—

QUESTION.

Does a domestic prune juice, containing less than eighteen per cent of alcoholic strength, require to be stamped, that is, with rectifier's stamp, the goods being made by cold process.

ANSWER.

Prune juice is not required to be stamped as rectified spirits, provided that the entire quantity of spirits does not exceed ten per cent of the whole quantity of prune juice and spirits put together.

In case a larger quantity of spirits is added than the regulations allow to be added to wine to prevent spoiling (to wit, ten per cent proof), the product is to be regarded as a *compound liquor*, and stamped accordingly.

OUTAGE ON REIMPORTED DOMESTIC WHISKY.—

QUESTION.

Is the allowance of outage for seven years provided for by the act of March 3, 1899, applicable also to reimported domestic whisky in custom warehouse?

ANSWER.

It is not. The allowance is restricted to spirits remaining in internal revenue bonded warehouse and does not apply to reimported domestic whisky in customs custody.

INDIANA STATE TAX.—

QUESTION.

Is there any state tax in the State of Indiana?

ANSWER.

There is.

SCALE FOR REMUNERATION OF SALESMEN.—

QUESTION.

How would you determine the value of a salesman in arriving at a fair remuneration for his work, whether by volume of gross sales or otherwise?

ANSWER.

Where the selling price is uniform the volume of sales would determine the value of the salesman, for this would show the profit to the firm. A distiller selling to the jobber at a uniform price can figure on that basis.

In cases where a wholesale dealer sells to retailers at differ

ent prices and sometimes considerably below the limit set, or if he sells to wholesale and retail at different figures, the volume of sales would not be the gauge. The correct way in this case is to figure the actual profit on each sale and subtract the expenses as well as losses.

It should also be borne in mind that a salesman cannot be always gauged by immediate actual results attained, for he may be laying the foundation for future business. The desirability of the connections he makes should also enter into the problem.

On the other hand a salesman may by misrepresentation place his principals in a false light so as to injure their chances for continuance of patronage.

All these are elements in the solution of the problem.

SHOULD FREE WHISKY STORED ELSEWHERE BE ENTERED IN FORM 52? WHAT GAUGE MARKS SHOULD BE ENTERED AND IF SHIPPED TO RETAILER HOW TO BE ENTERED.—

QUESTION.

(1) If bonded whisky is tax-paid, and stored in free distillery or public warehouse, should same be entered in Form 52? If so, how and when, and if required to be entered, should it be taken up as so much whisky on the premises on Form 338?

(2) The Internal Revenue manual requires that packages be entered in Form 52 according to the marks on the barrels; how then should tax-paid packages be entered, which have been bought, in free warehouses, for which only a regauge is sent?

(3) In shipping packages to retail dealers direct from free warehouses, how must same be entered in Form 52?

(4) Are blended rye whiskies supposed to be entered under the rye column in Form 338?

ANSWER.

(1) Tax-paid whiskies stored in free distillers' or public warehouse irrespective of locality should be entered on Form 52 as soon as tax-paid. You are practically the lessee of that much of the storage room as your goods occupy, if re-sold and shipped from the free warehouse to the buyer, no matter where located, it must be entered out on your Form 52, and he in turn enters it on his Form 52 as bought from you. The whisky, however, not being floor stock, should not be entered on Form 338 as though it was stored on your premises.

(2) The official gauge when goods were tax-paid showing number of proof and wine gallons, ontage and name of gauger, should be entered on Form 52. If on the commercial regauge nothing else appears but the serial numbers and net contents at the time of purchase, you should procure a copy of the gauge at time of tax-payment from the distiller, so as to have a complete record. Whatever outs may have taken place in the interim, a

special column is provided for on Form 52, wherein the actual ontage at time of purchase should be entered.

(3) In shipping to retailers the entry must be entered as above stated in the answer to first question.

(4) Yes.

HOW TO ENTER IN FORM 52 GOODS SHIPPED BY DISTILLER DIRECT TO RETAILER.—

QUESTION.

I have sold five barrels of whisky to a retailer; the goods are stored at a distiller's free warehouse, who has instructions to ship them direct to my customer, the invoice, however, to be made to me through a broker. Will the distiller enter on Form 52 to me or direct to the name of my customer?

ANSWER.

The shipper's duty is to enter the name of the person to whom goods are shipped, and in that case the name of the customer will appear in the book and not yours. The spirit of the law is that the record of the barrel shall be given step by step until it reaches the consumer.

HOW TO ENTER REIMPORTED WHISKY IN FORM 52.—

QUESTION.

What stamp numbers, i. e., Serial, Warehouse, Export or Importers', on exported whisky which has been returned to this country should be entered on Wholesale Liquor Dealer's Book Form 52?

ANSWER.

Import stamp is all that is necessary to enter; gauge of the custom house gauge.

HOW TO ENTER IN FORM 52 WHEN BARREL IS DUMPED INTO KEGS.—

QUESTION.

We have a barrel of whisky containing say forty gallons 100 per cent. We wish that barrel dumped in four ten-gallon kegs, consequently we cut the stamp and make application for four wholesale stamps. Now we don't wish to dispose of those four ten gallon kegs, but we want to keep them in stock for future demand. Are we obliged to make an entry in either Form 52 A or 52 B until we dispose of the four kegs either separately or all, thereby accounting for barrel emptied to fill those four ten gallon kegs?

ANSWER.

Yes. The barrel must first be entered as disposed of to yourself, and the four ten gallon kegs entered as received constructively from yourself, and entered out when sold. The

principle on which the department goes is that the record must be complete.

HOW TO ENTER BALANCE ON FORM 52 WHEN PART OF BARREL HAS BEEN DISPOSED OF.—

QUESTION.

If a dealer who has paid internal revenue taxes both as a wholesale liquor dealer and retail liquor dealer draws from a barrel of whisky containing forty-five proof gallons four withdrawals, each for ten proof gallons, under his wholesale license, and then desires to retail the balance of five gallons in the barrel, is it necessary to apply for a five-gallon stamp to cover the balance, or can he simply enter up on form 52 the balance of five gallons to himself as a retail liquor dealer; that is, 45 gallons, 40 out?

ANSWER.

It is not necessary to procure a five-gallon stamp. The regulation reads "If, after a portion of the spirits has been sold from any cask or package, a wholesale liquor dealer (who has paid a special tax as a retail liquor dealer) wishes to retail the balance on the same premises, he must transfer such balance to himself as a retail liquor dealer, and report such transfer on his book. (Form 52.") The United States Internal Revenue Manual also states as follows: "When a party carries on the business of wholesale and retail liquor dealer on the same premises, he may take credit on his account for spirits disposed of at retail, which he has entered as received, by setting aside packages from which to draw for retail only, and entering them as disposed of to himself as retail dealer." In entering the package on Form 52 for retail, the dealer will, of course, charge up the full forty-five gallons, but take credit in the proper place for the forty gallons outage.

HOW TO ENTER ON FORM 52 WHEN BOTTLING FOR RETAIL.—

QUESTION.

I am a wholesale liquor dealer and have also retail and rectifier's licenses. When I bottle whisky and wish to take it under my "27 B," which is rectifiers' notice—

1. Do I have to draw a barrel under the "27 B" notice, stamp it, and then change it in retail on Form 52, marking the barrel "Retail;" or,

2. Can I bottle right from the tubs (under "27 B") without going to all that trouble?

ANSWER.

Bottling cannot be made from leaching or mixing tubs on rectifiers' notices on Form 27 B. Spirits in said tubs must

be drawn into package, which must be gauged and stamped. Said stamped package, when withdrawn from rectification, should be charged to yourself, if you propose, as owner, to bottle therefrom.

WHAT ENTRY ON FORM 52 WHEN WHOLESALE AND RETAIL DEALERS PUT A BARREL ON TAP FOR RETAIL.—

QUESTION.

A dealer selling beer in cases to customers in lots of more than one, five or ten cases at one time in one day, does he or does he not require a wholesale special tax?

A firm operating under a wholesale, also a retail, tax, put a barrel of whisky on tap for retail purposes—what entry in W. L. D. book? They draw from barrel put on tap 10 gallons to sell to one customer at one time. What entry and what is required in line of stamps, etc.?

ANSWER.

If a dealer selling beer makes a sale at one time of five gallons or over, whether it be in cases or kegs, he must pay a wholesale malt liquor dealer's government tax.

Regarding your second question, we give you below an illustration governing the case. Suppose you had only one barrel of rye on hand as wholesale liquor dealers and you wish to transfer it to yourself as retail dealers, you enter it on Form 52 as disposed of to yourselves in the latter capacity. After you have sold three gallons in retail, a customer comes in and wishes to buy 10 gallons rye. You enter the barrel (less the three gallons sold at retail) back to yourself on Form 92 as wholesale dealers, draw off the 10 gallons, scalp the stamp for the portion sold and send it with Form 92 to the collector and ask for a stamp for the 10 gallons. You then charge the barrel back to yourselves as retail dealers on Form 52.

SHOULD GOODS BE ENTERED ON FORM 52 WHILE IN TRANSIT?—

QUESTION.

Please state whether goods should be entered on Form 52, while in transit, or only when received into purchaser's store house?

ANSWER.

Goods should be entered on Form 52 only after owner has actual receipt into his custody. While in transit they are liable to accident whereby they might be wholly or partly destroyed. If entered before actually receiving possession, the form would not show correctly. The object of the law relating to Form 52 is to enable the authorities to keep track of every barrel.

HOW TO CORRECT ERRORS MADE IN KEEPING FORM 52.—

QUESTION.

Is it permissible to cut out a leaf of the book Form 52 and recopy the entries on a new page; in keeping the book we have made a few errors which have necessitated the lining out and re-entering of several items and presents a bad appearance.

ANSWER.

It is not permissible to cut a leaf out of the book containing Form 52 and recopy the entries on a new page, nor it is permissible to erase the errors made by scratching. The only allowable way to erase the errors is by drawing a line through them.

SHOULD GOODS STORED ELSEWHERE BE ENTERED ON FORM 52?—

QUESTION.

Should we enter on Form 52 goods stored in free warehouse in another state?

ANSWER.

Yes. Goods stored in free warehouses are as much a part of your stock as though stored on the floor of your own store. You have practically a certain space in a warehouse for which you are paying rent in the form of storage. Hence it should be entered as constructively of your stock.

HOW TO ENTER ON FORM 52 GOODS TAKEN BACK FROM RETAILER.—

QUESTION.

Suppose we sell five barrels of whisky to a saloon keeper, which we enter as disposed of in Form 52 B. After the saloon keeper has sold two barrels, and paid for them, he comes to the conclusion that he cannot pay for the remaining three barrels, and asks us to take them back. Can we take them back from him (he being only a retailer) and enter them back from him as received in Form 52 B? The revenue officials say that we cannot do so except by process of law—that we must attach, and they must be sold by the sheriff, and then enter as received from him.

ANSWER.

Yes. You can take back the three barrels from him, but it should be entered on Form 52 as received from him on consignment, which will bring the entire transaction within the law.

WHAT GAUGE MARKS SHOULD BE ENTERED ON FORM 52?—

QUESTION.

In entering in Form 52 goods received, ought the gauge at the time of tax-paying be entered or the actual contents? Say the gauge at the time of tax-paying was 38.52 and at the time

we received the goods the actual proof gallon was 31.20, which one would we enter?

ANSWER.

Enter in Form 52 contents as marked and stamped as per official gauge (tax-paid). But in case of discrepancy enter in column under heading "number of proof gallons out" the quantity of proof gallons short as ascertained by a regauge.

SHOULD BLACKBERRY BRANDY BE ENTERED ON FORM 52?—

QUESTION.

When we buy whisky the invoice is accompanied by a certificate of inspection and signed by the gauger. When the whisky is received and the barrels examined, we find stenciled thereon the name of gauger together with the date of inspection. It is always the case that the name on the certificate and that on the barrel is unlike; which is the proper name for us to enter in the Form 52?

Is it necessary to enter receipts and sales of blackberry brandy in Form 52?

ANSWER.

The name of the gauger as stenciled on barrel should be entered on Form 52 and also the date of inspection as appearing on barrel.

Blackberry brandy should be entered on Form 52, although, of course, the proof cannot be given.

WHAT NUMBER OF GALLONS SHOULD BE ENTERED ON FORM 52 FOR WHISKIES TAX-PAID AND STORED IN FREE WAREHOUSE?—

QUESTION.

If a person after paying the tax on a barrel of whisky stores it for, say, a period of five years, and at the end of said period sells it, does he enter in government book the same number of gallons as were stamped on the barrel when it was tax-paid?

ANSWER.

He enters the same number of gallons as were stamped on the barrel when it was tax-paid, but it is always advisable for him to enter the regauge figures in addition.

SHOULD ORIGINAL CONTENTS OR CONTENTS AT TIME OF TAX PAYING GOODS BE ENTERED ON FORM 52?—

QUESTION.

In making an entry in the government book, does a wholesale liquor dealer enter the wine gallons stamped on the package at the time the whisky was warehoused, or the number of gallons the package contained at the time of tax paying the goods?

ANSWER.

He enters the number of gallons according to the regauge at the time of tax-paying the goods.

CHAPTER II.

GENERAL INFORMATION.

DRAYAGE.—

The question of drayage, if not clearly understood both by buyer and seller at the time the transaction is being made, frequently gives rise to disputes. Some distillers deliver their goods free of charge on board of cars; others, again, whose distilleries are located at some distance from the railroad, which entails in some cases a rather heavy expense of draying to the depot, are compelled to charge the drayage to the buyer. Inasmuch as drayage is as much a part of transportation as the freight itself, the charge should in all fairness be borne by the buyer.

NET.—

The word "net" is often used by both buyer and seller, each having a different conception of its meaning. If applied to a broker it means that all charges accrued (storage, state tax, etc.) are to be borne by the seller, but no commission to be paid by seller to broker, and implies net cash. As applied between buyer and seller direct, "net" signifies merely that the terms are net cash; all accrued charges, however, to be borne by the seller.

TERMS OF SALE.—

The terms of sales of whiskies in bonds are, by general usage, invariably understood as based on the original gauge as entered in bond, and for cash. If sold on time this fact should be distinctly stated, to avoid controversy between buyer and seller. It is also an established rule that the seller has to pay storage, state tax (and county tax, if any).

HOW TO CALCULATE STORAGE CHARGES.—

It should be understood by the trade in general that the established rule among warehouse keepers is to charge storage

for a full month for every fraction of a month. In other words, if goods are stored in a warehouse, either on the first or last day of the month, storage is charged for the full month.

Although this rule is universally adopted by warehousemen, some distillers charge for half month only if goods are withdrawn before the 15th of each month. This is, however, entirely discretionary, and the dealer cannot claim it as a right.

In calculating state and county taxes general rule adopted is to charge for a whole month every fraction of a month.

CORRECTION OF VOLUME.—

Correction of volume is either charged or allowed according to the temperature of the whisky. The standard temperature at time of gauge is 60 degrees Fahr. If the whisky is colder and falls below 60 degrees the correction is added, and if above 60 degrees it is subtracted *pro rata*.

All fractions below 50-100ths are not charged for, and all fractions from 50-100ths and over are charged for as one gallon.

To exemplify the above general rules we will suppose a case as follows:

A barrel is originally gauged at 43 wine gallons, 101 proof, = 43.43 proof gallons, and remained in bond two years. On being regauged the amount contained is found to be 42½ wine gallons, 5 gallons outs, and 99 proof. The government deducts from 42.50 the 5 gallons outage, leaving 37.50 gallons, adding thereto the 1 per cent loss below 100 proof, which is .0375, or, say, .01, and we have now 37.50 plus .01 or 37.51 gallons, which being a fraction in excess of 37.50 gallons is charged for as 38 taxable gallons.

The above exemplification of the capacity of the wine gallons being less on regauging by half a gallon than the original capacity is given because such cases do actually occur, and can be accounted for only on the hypothesis of the hoops of the barrel having been driven for the purpose of protecting against leakage.

WHY DOES WHISKY GAIN OR LOSE IN PROOF.—

Prior to the institution of the "internal revenue laws," whisky was made in Kentucky in comparatively small quantities, by distillers who were, as a general rule, farmers. Their establishments were of the crudest nature, and none were provided with special warehouses. As a consequence, such vacant spaces as might be on their premises were utilized for storage purposes until the whisky could be marketed, which was when their teams could be spared from farm work. Cellars and the ground floor of outhouses were the invariable depositories. Depreciation of proof was then the rule, and such of these old "farmer distillers"

as are now living are quite as persistent in their belief that whisky never does increase in proof as was the old colored preacher in Virginia who recently proclaimed that "the sun do move."

The first revenue law comprehended two classes of warehouses, to wit: "Distillery" and Class B, with the liberty to owners of transporting in bond from the former to the latter. As a consequence, almost all the whisky made for several years was concentrated in the Class B warehouses, which were commodious buildings established at large distributing centers. In these the whisky was stored from "cellar to garret." After some time it was discovered that low storage caused loss of alcoholic strength and high increased it. The extent of loss and gain was in exact proportion as to whether storage was low and damp or high and dry. Whisky stored in a fourth story next to metal roof has been known to increase from 105° proof to 115° in five years and that which went into the ground floor of a damp warehouse to decline from 100° to 92° within three years.

Consideration of these facts made it conclusive that they were brought about by the phenomena of "exosmose" and "endosmose" (inward motion and outward motion), together with the known affinity of the atmosphere for water, with which it will saturate itself to repletion when opportunity is afforded, even to the extent of dripping like a sponge when too full. Alcohol also has great affinity for water. Upon the endosmose principle, this moisture enveloping the barrel penetrates the pores of the wood and reduces proof. It is not infrequently observed that whisky stored in a damp cellar where a moldy, fungus-like odor prevails, in time acquires a like characteristic, both as to smell and taste, even though the barrel be tightly bunged. This would seem to leave no doubt as to the effect of the atmosphere upon whisky.

Now, while it is established that the atmosphere will deposit its moisture, it is equally true that, when deficient in that quality, it will seek it where it can be found. Anhydrous (waterless) or absolute alcohol cannot be produced by distillation, the highest proof at which it can be so produced being about 192°. The modern method for eliminating the water is to treat the alcohol with lime. The same result, however, can be obtained by putting the alcohol in a bladder and subjecting it to a high temperature in a sand bath. This is upon the endosmosis principle, and is the same as operates upon the barrel when enveloped by a hot, dry atmosphere, and induces increased strength of the spirits.

The idea has obtained with a great many that all *old* whisky must show high proof. This is by no means the case, and only exists when it has been stored high.

So much for theory. The facts as to high and low proof, induced by conditions of storage, are too general to be doubted.

In the aging of whisky there is always more or less etherization of the heavy oils contained in whisky. This conversion into œnanthylic and butyric ethers gives the bouquet characteristics of old whisky. According as the spirits are deprived of the heavy oils, their specific gravity diminishes, causing the hydrometer to show greater strength, even though the proportion of water in the compound remains the same.

TO CLEAR WHISKY DISCOLORED BY IRON.—

The following recipe is for one barrel: Take the whites of one dozen eggs, mix thoroughly with one gallon milk; pour it into barrel; in three days the whisky can be drawn off clear.

TREATMENT OF FROSTED WINES.—

What is to be done with frosted wine? During cold weather, in the absence of means of maintaining artificial heat in goods vans and other conveyances, many consignments of wine reach their destination in a state of congelation. For this, a very low temperature like 10 deg. R. (9 deg. below zero Fahr.) is requisite; but we must also consider that wine suffers by exposure to a much less degree of cold. The first indication that wine gives of a fall of 8 to 10 deg. R. (50 to 54 deg. Fahr.) below the ordinary cellar temperature is a loss of brilliancy, probably followed by more or less clouding. The explanation of this is that most wine holds much tartar in solution, the solubility of which in the wine decreases as the temperature falls. The separation of the tartar crystals, which at the outset are so minute as to be invisible to the naked eye, interferes with the transparency, and in the end produces cloudiness. When the wine is left undisturbed, they precipitate, forming a deposit resembling powdered glass. As regards flavor, the separation of the tartar is an advantage, rendering the wine more mellow; but with wine in bottle it is very undesirable, as the wine always appears clouded or shows a sediment. By keeping in a warm place the clouding generally disappears, the floating crystals becoming redissolved. If there is a deposit, it can be got rid of by decanting carefully into fresh bottles. In transport casks the matter is of less moment. The wine can be left in the cellar, and racked when it becomes bright by precipitation. Wine exposed to a temperature of 10 deg. R. (9 deg. Fahr.), or lower, becomes more or less congealed, the ice being in inverse proportion to the alcoholic strength of the wine. As a rule, a tangled mass of elongated ice crystals forms in the wine, the interstices of which hold the yet unfrozen portion of the liquor. If a cask thus frozen is turned upside down, or the unfrozen liquid run out, the composition of the latter will be found to differ much from that of the frozen part. The fluid portion contains most of the chief

constituents of the wine, and is richer in alcohol and extract than the original wine. The solid portion contains more water, very little alcohol and extract, and when thawed has little of the character of wine. A poor wine may be thus improved in quality—of course at the expense of quantity. Experiments have lately been made in this direction; but the method has not yet found its way into practice. When the frozen wine is in transport casks, all that can be done is to leave it in a warm cellar, or better still, in a warm room until the ice has disappeared, and the wine has recovered a temperature of 8 to 9 deg. R. (50 to 52 deg. Fahr.). It can then be drawn off into store-casks in the ordinary way, and treated, according to its age, like any other wine. While many other frozen wines appear to suffer no lasting ill effects, but after some weeks entirely recover their normal condition, others appear more deeply affected, and not unfrequently acquire a certain peculiarity of flavor. This is often very lasting, and in such cases it may be advisable to employ the wine for mixing, so as to get rid of it.

WINE IN DOUBTFUL CONDITION.—

If, on examining a cask of wine, especially a claret, in the cellar or vaults, there is a suspicion of approaching unsoundness, the first precaution is to procure a clean, sound and previously sulphured cask and rack the wine bright from lees or sediment. This in itself is an effective precaution, and frequently suffices to check the evil if in its incipient state. To make assurance doubly sure, however, it would be well to fortify slightly, adding a good clean spirit at proof strength. If a wine has advanced to a condition of unsoundness through starting of secondary fermentation the foregoing measure should at once be taken, but if not adequate to check the evil, it would be advisable—rather than attempt a check by addition of neutralizing alkalis, such as carbonates of soda, magnesia or lime (as we have heard of being done) to vat or blend the wine with a large stock of sound wine of the same sort.

UNFERMENTED WINE.—

Professor Muller, of Torgau, in Switzerland, has applied the principle of Pasteur's treatment of wine for the preservation of grape juice and other fruit juices without fermentation. He finds that when the freshly expressed juice is heated in bottles to a temperature of from 60 to 70 degrees C. for fifteen minutes the yeast cells and other fermenting agents are rendered inactive. The juice can then be kept in well-closed bottles for several years without fermenting. To obtain the juice clear, it must, however, be filtered, an operation which is easily carried out, as the heating will have coagulated the mucilagin-

ous substances causing turbidity. Filtration may be carried out immediately after heating the juice or after some time, but in any case the filtered juice must be again heated in bottles to the same temperature originally applied, and then it will keep clear in well-closed bottles for several years. Some grape juice bottled in this manner since fourteen years is still sound and unfermented.

GREEN COLOR IN WINES.—

A green color occasionally seen in wines has led to investigations as to its cause in Germany. A. Borntraeger, who conducted these investigations, has found that the color is due to the action of ferric iron on œnotannin, or, in plain English, on the wine tannin. If anything, the presence of the green color is beneficial to the wine used solely for medicinal purposes, though objectionable as to appearance, because it is proof that the wine is rich in iron and so far of benefit to anemic persons. For commercial purposes it was discovered that this color may be completely removed from the wine by the addition of gelatine, which, after standing, throws down a dirty green precipitate. If the wine be decanted off from this precipitate or, perferably, filtered, the color will be much improved, being only faintly yellow and containing only about as much as was originally present.

SEDIMENT IN WINES.—

A good wine must, in the ordinary process of its development in bottle, throw a sediment just as a bulk wine deposits in the bottom of the cask. It is this very sediment, so strongly objected to by some people, which marks the improvement and development of the wine, since in precipitating the sediment it loses harshness and crudeness and becomes mellow and matured.

This peculiarity applies as well to Rhine and Moselle wines as it does to clarets, burgundies and port wines. Of course, a bottle in which this development has taken place must be carefully handled to prevent disturbing the sediment.

A wine should be permitted to remain undisturbed for at least 24 or 48 hours before it is served, the cork being at the proper time carefully drawn without altering the position of the bottle. It should further have a temperature suited to its nature, red wines from 50 to 60 degrees, white wines somewhat colder, and finally it should be served with a due regard to the food which will best bring out its good qualities.

By Julius Wile, Brothers & Co. of New York.

ARTIFICIAL WINES FROM BARLEY.—

About a quarter of a million of gallons of artificial wine

is being made from barley every year in a large factory in Hamburg. The medical profession in Germany think very highly of the wine, and recommend it in the hospitals of that country. Its taste is said to be somewhat insipid to the palate of a connoisseur, but from all accounts it is infinitely to be preferred to the rank and pernicious "wines" supplied at cheap table d'hotes in this country. In cases of disease of the stomach the mild malt wines are often easily digested while other sweet wines produce unfavorable symptoms. Very few wines possess the same degree of nutrition as those made from good malt, and an extension of this wine-producing interest may be looked for, possibly in America. It is claimed that it produces quite a close imitation of sherry, port, Tokay, and Malaga, and as our barley is much better than German barley our malt wine might also be superior to theirs.

A LEARNED OPINION ON ALCOHOL.—

That eminent authority, Prof. G. H. Lewes, in his "Physiology of Common Life," thus discusses alcohol as a food:

"In compliance with the dictates of physiology, and let me add, in compliance also with the custom of physiologists, we are forced to call alcohol food, and very efficient food, too. If it be not food, then neither is sugar food, nor starch, nor any of those manifold substances employed by man which do not enter into the composition of his tissues. That it produces poisonous effects when concentrated and taken in large doses is perfectly true; but that similar effects follow when taken in small doses is manifestly false, as proved by daily experience.

"Every person practically acquainted with the subject knows that concentrated alcohol has, among other effects, that of depriving the mucous membrane of the stomach of all its water, *i. e.*, of hardening it and destroying its powers of secretion; whereas diluted alcohol does nothing of the kind, but increases the secretion by the stimulus it gives to the circulation.

"He (Bardleben) found that forty-five grains of common salt introduced at once into the stomach through an opening occasioned a secretion of mucous, followed by vomitings; whereas five times that amount of salt in solution produced neither of these effects. The explanation is simple, and would be understood by anyone who has seen the salt which was sprinkled over a round of beef converted into brine, owing to the attraction exercised by the salt on the water in the beef; this attraction is incalculably smaller when the salt is in solution and the salt already saturated.

"We might multiply examples of the differences which result from the use of concentrated and diluted agents, or from differences in the quantities employed; as when a certain amount of acid assists digestion, but if increased, arrests it. But the dem-

onstration of such a position is unnecessary, since no well informed physiologist will deny it.

"Men take their pint of beer or pint of wine daily for a number of years. This dose daily produces its effect; and if at any time thirst or social seduction makes them drink a quart instead of a pint, they are at once made aware of the excess.

"We know what a stimulant tea is; we know that treble the amount of our daily consumption would soon produce paralysis —why are we not irresistibly led to this fatal excess?

"Alcohol replaces a certain amount of ordinary food. Liebig tells us that in temperance families where beer was withheld and money given in compensation, it was soon found that the monthly consumption of bread was so strikingly increased that the beer was twice paid for—once in money and a second time in bread. He also reports the experience of the landlord of the Hotel de Russie, at Frankfort, during the Peace Congress; the members of this congress were mostly teetotalers and regular deficiency was observed every day in certain dishes, especially farinaceous dishes, puddings, etc. So unheard of a deficiency in an establishment where for years the amount of dishes for a given number of persons had so well been known excited the landlord's astonishment. It was found that men made up in pudding what they neglected in wine."

ALCOHOL IN LAW.—

Whether alcohol, in its pure state, comes within the description of "spirituous liquors" or "intoxicating liquors" is a question upon which the courts are by no means agreed. On the one hand, it has been ruled that no proof is required of the intoxicating properties of this liquid; that as a matter of law it is known to be an intoxicant; and that an indictment for selling intoxicating liquor is sustained by proof of a sale of alcohol. But on the other hand, we have a judicial declaration that alcohol is neither ardent or vinous spirits, and that its sale is not in any manner restricted or regulated by a prohibitory law. The Supreme Court of Illinois, while apparently unwilling to decide either way as a matter of law, inclines to the former view. In response to an objection that pure alcohol is not, in legal parlance, a spirituous liquor, that tribunal is reported as saying, "it is not, in common parlance, so considered, although it is the basis of all spirituous liquors." We are not prepared to say, however, that selling pure alcohol is not selling spirituous liquor. The difficulty of the question lies in the fact that alcohol, while certainly intoxicating, is very rarely used as a beverage, but is adapted to many medicinal mechanical uses. It is clear that no proof need be required of its intoxicating character. But the circumstances of the particular sale, the manner and purpose of it, and the characters of sellers and pur-

chaser should be mainly consulted in determining whether it comes within the law. If a saloonkeeper sells alcohol to an intoxicated person, in order that the latter may drink it, it is evident that the law is violated. But if a druggist, not authorized to sell liquor, sells alcohol to a surgeon, to be used by the latter in preserving anatomical specimens, it is equally clear that there is no infraction of the law. In line with these principles is a decision of the court in Arkansas, wherein it is said: "This court does not judicially know that it (alcohol) is an intoxicating beverage, like whisky, nor that it is in common use for purposes of dissipation, nor even that it is capable of being applied to such a use. If, however, such is the case, and the liquor seller uses this subterfuge for the purpose of pursuing the calling and evading the law, it is possible that a conviction upon an indictment for selling ardent spirits might be sustained by proof of a sale of alcohol. But a bare charge of selling alcohol discloses no criminal offense."

WHAT ALCOHOL IS USED FOR.—

CURIOUS FACTS AS TO ITS UNIVERSALITY IN BOTH ARTS AND GREAT INDUSTRIES.

Saloon keepers are not alone the buyers of their alcoholic products. In fact, it has been ascertained that among the best customers of the distilling business are the manufacturers of alcoholic soap, fireworks, brass goods of different kinds, various iron establishments, lock manufacturers, celluloid manufacturing companies, watchmakers, woolen manufacturers, cotton mills, varnish manufacturers, all wholesale and retail druggists and manufacturers of proprietary medicines, nitre manufacturers, chloroform manufacturers, chemists engaged in over thirty different pursuits, all straw goods makers, picture frame manufacturers, perfumers, all extract manufacturers, patent medicines, all gas companies, all electric light manufacturing companies, all hat and cap companies, furniture manufacturers, compass makers, all preserving of specimen companies, all the hospitals, vinegar men, all tobacco manufacturers, cigarette and cigar men, all the railroad machine shops, all shellac makers, lead-pencil makers, organ and piano manufacturers, ink makers, blacking manufacturers, rubber goods makers, cement makers, brush manufacturers, quinine makers, wallpaper makers, patent leather manufacturers, cutlery men, all the cartridge manufacturers, fulminate men, etc.

There are probably over one thousand other kinds of industries employing alcoholic preparations in their business.

It is one of the prime articles of use and the only known practically useful solvent of all the essential oils.

There is not a single article of clothing on the human body where alcohol is not used. Shoes, trousers, stockings, hats,

shirts, collars, cuffs, sleeve buttons, etc., all other buttons; thread makers, jewelers, etc., all employ it in the progress of their arts.

GERMANS PROHIBIT SACCHARIN IN BEER.—

The German law, by which the use of saccharin and other materials of a higher sweetening power but of less nutritive properties than cane or beet sugar is prohibited, went into effect in October, 1898. The material clauses of the law are as follows:

Section 3. It is prohibited (1) to use artificial sweetstuffs in the industrial production of beer, wine, fruit juice, canned goods and spirituous liquors, as well as of starch and sugar syrups, and (2) to sell or offer for sale any food or beverage of the said kind.

Section 4. Whoever intentionally violates the provisions laid down in section 3 shall be liable to a punishment in the penitentiary for a term not exceeding six months and a fine not exceeding fifteen hundred marks, or either of the two punishments. If the act be committed by negligence only, the fine shall not exceed one hundred and fifty marks, but the offender may be sent to jail. All the goods so sold or offered for sale may be condemned, even if the guilty party cannot be brought to law.

CLARIFICATION OF FERMENTED LIQUORS.—

A new process is described by Otho Reinke, in the Wochenschrift fur Brauerei, for the clarification of fermented liquors. According to Herr Reinke, if a vessel that contains wine or beer in process of fermentation be illuminated by sunlight, either directly or after reflection from the sky or from surrounding objects, clarification rapidly takes place, all substances that cause turbidity being precipitated to the bottom of the vessel. Wine or beer not thus subjected to the action of light clarifies more slowly. The observer was led by this fact to see whether he could not get a similar effect with the electric light, and he found that he could obtain complete and rapid clarification by hanging arc lamps near the fermenting liquors. The importance of the discovery is self-evident.

EFFECT OF ALCOHOL ON DURATION OF LIFE.—

A commission appointed by the British Medical Society to gather statistics on the influence of alcohol on the duration of life has reported observations including 4,235 cases of death in five categories of individuals, and the following is the average age attained by each class:

1. Abstainers, fifty-one years and one month.
2. Moderate drinkers, sixty-three years and one-half month.
3. Habitual drinkers, fifty-seven years and two months.

4. Occasional drinkers, fifty-nine years and two months.
5. Drunkards, fifty-three years and one-half month.

It will be noticed that the most advanced age is attained by moderate drinkers, and the minimum by abstainers, the latter dying younger than even drunkards. At any rate, the every-day experience of life suffices to show the unreliability of the conclusion that a man stands a better chance of living longer by being drunk than sober.

THE CHARRING OF BARRELS.—

Next to the proper and careful distillation of whiskies and of the selection of the materials used therein is that of the charring of barrels. Experience has demonstrated to the full satisfaction of distiller and dealer that for the improvement and development of whiskies proper charring of barrels is one of the most important essentials. So important is the matter, that if two barrels, differing in charring alone, be filled up with the same whisky, and subjected to like conditions of storage, the difference in result after several years of aging will be so marked as to astonish anyone who had not made charring a matter of observation and experiment.

CHAPTER III.

NOTABLE EXPRESSIONS OF EMINENT MEN ON PERSONAL LIBERTY.

ROBERT J. INGERSOLL ON PROHIBITION.—

"Prohibition in any form means the death of personal liberty; successful prohibition its utter annihilation." Mr. Ingersoll, speaking recently of liberty, said one cannot consider it an interference with his liberty if he finds in his path a river, an impassable gulf, or a tiger. One is annoyed by these things, but not angered. But when he meets a man with a gun, arbitrarily barring his way, his whole being is filled with wrath. Prohibition stands like one with a gun, depriving a man of his natural rights. Prohibition—the man with the gun—is not a guard of society against crime, for drinking is not a crime against God, nor yet a thing made a crime by man—man having made many

things crimes which in nature are not such—for prohibition has made the selling of liquor, not the drinking of it, the crime; it is simply an arbitrary withdrawal of a natural right to one only of a hundred indulgences which in themselves are harmless, and become injurious only when carried to excess. Drinking per se cannot be catalogued as crime except by arbitrary enactment—cannot even be set down in the category of sins, and many sins are not crimes. It is no more a crime than is the coveting of "thy neighbor's house," or the infraction of the command, "honor thy father and thy mother," though both these are sins forbidden by the law of Moses. It is, pure and simple, merely a tyrannical attempt—we speak now of its highest ideal—to create an "inward spiritual grace" by forcing the outward man into a physical mold—a doctrine of soul development which has been condemned by every thinker, from Christ to Carlyle, Emerson or Browning. And even granting the power of this ideal, prohibition is a fallacy and an outrage on liberty, because the punishment for this newly created "crime" is not visited upon the criminal—the drunkard—but on someone else.

REV. GEORGE F. PENTECOST ON TEMPERANCE.—

The Rev. Dr. Geo. F. Pentecost, formerly of this country, but now a distinguished divine of London, England, in 1893 wrote the lesson paper for the Sunday-school department of the New York Witness. The lesson for October 20 was on the subject of abstinence, and particularly as it applies to the temperance question. In the course of his article on that lesson he said: The use of wine in itself is not a sin, nor is its ordinary use forbidden in any place in the Scriptures. The abuse of the habit, however, is one of the worst evils of the times. Drunkards do not become drunkards because other men are temperate. I only say that it is not a fair inference from this principle that every man who uses wine temperately is to be held responsible for the intemperate use of it by others. If men are weak, they should give up the use of intoxicants, but if men are strong there is no reason why they should be compelled to get under bonds by weak men. Some people can't eat strawberries without becoming victims of a peculiar kind of poisoning. Does it follow on that account that we must all give up the use of strawberries? Let everyone be fully persuaded in his own mind in this matter. The weak should not indulge in censure against those who do not need caution. God will reveal to each one what is his duty in every case, whether in respect to wine drinking, theater going, card playing or dancing.

PLEA FOR PERSONAL LIBERTY BY SENATOR DAVID B. HILL.—

Senator David B. Hill says, in a communication on the Sunday laws:

"Regulation" has especially become the tyrant's familiar plea everywhere. I deny the proposition that merely because abuses are incident to or liable to accompany the doing of concededly proper things that therefore such things must be forbidden or surrounded with obnoxious provisions infringing our personal rights. Otherwise nearly every right guaranteed to us under our system of free government could be ruthlessly subverted under the pretense of guarding it from alleged evil effects. There will undoubtedly be cranks among us who will want to stop the electric carriage when it shall first appear on our streets during the coming summer. Our communities are filled with long-haired men and short-haired women—well meaning, but woefully misguided persons—intent upon minding other people's business, who are diligently concocting new schemes of legislation whereby to more completely circumscribe the personal privileges and innocent customs and habits of citizens. Offensive Sabbatarian legislation opens up a wide field for the activities of these busybodies. If the sale of harmless beverages on Sunday is to be absolutely forbidden, regardless of circumstances or conditions, whether in hotels, clubs, restaurants or upon steamboats or cars, how soon will it be before another step shall be taken by actually prescribing what men may eat and drink on Sunday, how and in what manner they shall conduct themselves, and even traveling upon that day and every form of recreation shall be either absolutely prohibited or materially restricted?

When once a state assumes to intermeddle with social and personal conduct beyond well recognized limitations, every barrier for the protection of personal liberty is in danger of being broken down.

It is time to cry a halt. We need less—not more—legislation. Individualism should be encouraged rather than the powers and functions of government should be increased; and to the accomplishment of that end an intelligent public sentiment should now be aroused and directed.

OPINIONS OF STATESMEN ON PROHIBITION.—

EX-GOVERNOR HORATIO SEYMOUR OF NEW YORK.

"I owe it to the subject and to the friends of the measure to add the expression of my belief that intemperance cannot be extirpated by prohibitory laws; they are not consistent with sound principles of legislation. Like decrees to regulate religious creeds, or forms of worship, they provoke resistance where they are designed to force obedience. The effort to suppress intemperance by unusual and arbitrary measures proves that the Legislature is attempting to do that which is not within its province to enact, or its power to enforce. Judicious legislation may correct abuses in the manufacture, sale or use of intoxicating liquors; it can do no more. All experience shows that temper-

ance, like other virtues, is not produced by lawmakers, but by the influence of education, morality and religion."

EX-GOVERNOR ANDREW OF MASSACHUSETTS.

"Artificial offenses and meddlesome legislation, and that felt to be unjust, are, indeed, causes of crime of which the philosophical educator cannot afford to be ignorant. Artificial offenses put a large class of people, and often that of the least discriminating and instructed, into needless antagonism with the law. Confounding of moral distinctions on the side of the law begets a corresponding confusion in the mind of the citizen. If the law treats the sale of a mug of beer or sweet cider as of like delinquency with the crime of larceny, how long will it take the humble and unlearned to conclude that the law is either a sham unworthy of veneration, or else jump to the converse of the first proposition, and vote larceny of an article to be no worse than the selling of the beer or the cider? So, therefore, every statute denouncing the penalties of the criminal law against men in violation of the commonly received sense of justice concerning human relations in the civil state, becomes, by reason of that very excess, a generator of evil."

JOHN QUINCY ADAMS.

"Forget not, I pray you, the right of personal freedom. Self-government is the foundation of all our political and social institutions, and it is by self-government alone that the law of temperance can be enforced. Seek not to enforce upon your brother, by legislative enactments, that virtue which he can possess only by the dictates of his own conscience and the energy of his own free will."

THOMAS JEFFERSON.

"No man has a natural right to commit aggression on the equal rights of another; and this is all from which the law ought to restrain him; every man is under the natural duty of contributing to the necessities of society, and this is all the laws ought to enforce on him. When the laws have declared and enforced all this, they have fulfilled their functions, and the idea is quite unfounded that on entering into society we give up any natural right."

ABRAHAM LINCOLN.

"Prohibition will work great injury to the cause of temperance. It is a species of intemperance within itself, for it goes beyond the bounds of reason in that it attempts to control a man's appetite by legislation, and in making crimes out of things that are not crimes. A prohibition law strikes a blow at the very principles on which our government was founded. I have always been found laboring to protect the weaker classes from the stronger, and I never can give my consent to such a law as you propose to enact. Until my tongue shall be silenced in death, I will continue to fight for the rights of man."

RETURN TO the circulation desk of any
University of California Library
or to the
NORTHERN REGIONAL LIBRARY FACILITY
Bldg. 400, Richmond Field Station
University of California
Richmond, CA 94804-4698

ALL BOOKS MAY BE RECALLED AFTER 7 DAYS
2-month loans may be renewed by calling
510 (~~415~~) 642-6753
1-year loans may be recharged by bringing books to NRLF
Renewals and recharges may be made 4 days prior to due date

DUE AS STAMPED BELOW

MAR 3 1993

SENT ON ILL

MAR 2 7 1996

U. C. BERKELEY

LOAN

LD 21-100m-7,'33

YD 01577

Mida's Criterion,

The recognized leading exponent of the wholesale liquor interests. Issued semi-monthly.

896782

THE UNIVERSITY OF CALIFORNIA LIBRARY

Three volumes.

Mida's Directory

Of Wholesale Liquor Dealers, Wine Dealers, Distillers and Importers.

PUBLISHED BY

THE CRITERION PUBLISHING CO., CHICAGO.